

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for an : Case No. 17-32-EL-AIR
Increase in Electric :
Distribution Rates. :

In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Tariff : Case No. 17-33-EL-ATA
Approval. :

In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Approval : Case No. 17-34-EL-AAM
to Change Accounting :
Methods. :

In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Approval : Case No. 17-872-EL-RDR
to Modify Rider PSR. :
In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Approval : Case No. 17-873-EL-ATA
to Amend Rider PSR. :

In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Approval : Case No. 17-874-EL-AAM
to Change Accounting :
Methods. :

In the Matter of the :
Application of Duke Energy:
Ohio, Inc., for Authority :
to Establish a Standard :
Service Offer Pursuant to :
Section 4928.143, Revised : Case No. 17-1263-EL-SSO
Code, in the Form of an :
Electric Security Plan, :
Accounting Modifications, :
and Tariffs for Generation:
Services. :

In the Matter of the :
 Application of Duke Energy:
 Ohio, Inc., for Authority :
 to Amend its Certified : Case No. 17-1264-EL-ATA
 Supplier Tariff, P.U.C.O. :
 No. 20. :

In the Matter of the :
 Application of Duke Energy:
 Ohio, Inc., for Authority : Case No. 17-1265-EL-AAM
 to Defer Vegetation :
 Management Costs. :

In the Matter of the :
 Application of Duke Energy:
 Ohio, Inc., to Establish :
 Minimum Reliability : Case No. 16-1602-EL-ESS
 Performance Standards :
 Pursuant to Chapter :
 4901:1-10, Ohio :
 Administrative Code. :

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PROCEEDINGS

before Mr. Nicholas Walstra and Ms. Stacie Cathcart,
 Attorney Examiners, at the Public Utilities
 Commission of Ohio, 180 East Broad Street, Room 11-A,
 Columbus, Ohio, called at 9:00 a.m. on Thursday,
 July 19, 2018.

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VOLUME IX

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1 Thursday Morning Session,
2 July 19, 2018.

3 - - -

4 EXAMINER WALSTRA: We'll go back on the
5 record.

6 We are here for Day 9 of In Re: Duke
7 Energy Ohio, regarding the global stipulation.

8 Ms. Fleisher, would you like to call your
9 witness.

10 MS. FLEISHER: Your Honor, I would like
11 to call Mr. Mark Higgins. Your Honor, may I
12 approach?

13 EXAMINER WALSTRA: You may.

14 MS. FLEISHER: I would like to identify
15 ELPC Exhibit 3, I believe we're on. Yes, thank you.

16 EXAMINER WALSTRA: Yes, 3. So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 (Witness sworn.)

19 - - -

20 MARK HIGGINS

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Ms. Fleisher:

25 Q. Mr. Higgins, would you please state your

1 name and your job title for the record.

2 A. Yes. Thank you. My name is Mark
3 Higgins. I am the Chief Operating Officer of
4 Strategen Consulting.

5 Q. And do you have in front of you a
6 document that's been identified as ELPC Exhibit 3?
7 Although it may not be marked as such in front of
8 you.

9 A. My direct testimony?

10 Q. Correct.

11 A. Yes, I do.

12 Q. And is this direct testimony that you've
13 caused to be filed in this case?

14 A. Yes.

15 Q. And if I asked you all the questions in
16 this direct testimony today, would your answers be
17 the same?

18 A. Yes.

19 MS. FLEISHER: Your Honor, I offer
20 Mr. Higgins for cross-examination.

21 EXAMINER WALSTRA: Thank you.

22 Go down the life. Any cross?

23 Mr. Oliker?

24 MR. OLIKER: Sure.

25 EXAMINER WALSTRA: You don't have to.

1 MR. OLIKER: Thank you.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Olikar:

5 Q. Good morning, Mr. Higgins.

6 A. Good morning.

7 Q. My name is Joe Olikar and I represent IGS
8 Energy. How are you?

9 A. I'm very good. Thank you.

10 Q. Just a few questions about your testimony
11 today. First, turning to -- mainly, would you agree
12 you discuss about batteries?

13 A. That is correct.

14 Q. And you're not offering an opinion
15 regarding what services Duke is permitted to offer
16 with its batteries under the stipulation, correct?

17 A. That would be out of the scope of my
18 testimony, that is correct.

19 Q. Good to hear that. Thank you.

20 And also you -- you are an accountant?

21 A. I am not an accountant.

22 Q. And are you familiar with the FERC
23 Uniform System of Accounts?

24 A. I have primarily looked at FERC
25 accounting rules with respect to being able to divide

1 up services from regulated assets versus merchant
2 participation. I did some work looking at some
3 regulations back when I was at Pacific Gas & Electric
4 around the accounting rules for energy storage.

5 Q. Okay.

6 A. But I'm not an accountant.

7 Q. Okay. And one of those rules relates to,
8 I believe it is Account 348 when energy stored is
9 used for production, correct?

10 A. Okay.

11 Q. And the non-wires alternatives that you
12 discuss in your testimony, am I correct that those
13 could be offered by an entity other than Duke Energy
14 Ohio?

15 A. Non-wires alternatives I do not view as
16 being necessarily part of what you would consider to
17 be a utility's natural monopoly. So it could be
18 offered by a utility, but it could also be offered by
19 a third party.

20 Q. Thank you.

21 And I see that you are familiar with the
22 Reforming the Energy Vision process?

23 A. Correct.

24 Q. And regarding the non-wires alternatives
25 that have been utilized in New York, would you agree

1 that that can be done pursuant to a competitive
2 bidding process or RFP?

3 A. Yes.

4 Q. And Direct Energy is actually doing
5 something along those lines regarding the Brooklyn
6 project, correct?

7 A. The Brooklyn project is a -- was part of
8 a competitive situation, that is correct. And Direct
9 Energy, are you referring to the third-party
10 developer in that case?

11 Q. Yes.

12 A. I'm not familiar with Direct's specific
13 involvement in that project aside from the fact that
14 the Brooklyn Queens Demand Management project was
15 competitively bid.

16 Q. And that project is supposed to save
17 Consolidated Edison several billion dollars, correct?

18 A. It is. I don't know the specific dollar
19 amount, but generally speaking, non-wires
20 alternatives are procured because they provide a more
21 cost-effective solution than a traditional grid
22 upgrade. So, typically speaking, you would see the
23 traditional solution of being the ceiling price of
24 what a non-wires alternative bid process would --
25 would select. So, for example, a non-wires

1 alternative might be selected if the lowest-cost
2 solution net of benefits came in below the
3 traditional grid upgrade.

4 MR. OLIKER: Could I have one minute,
5 your Honor?

6 Q. Just a few more questions.

7 In your testimony you mention the
8 frequency regulation market at PJM, correct?

9 A. Correct.

10 Q. Are you familiar with the operation of
11 that market in any fashion?

12 A. Not in depth, no.

13 Q. And what is the level of your familiarity
14 with that market?

15 A. My familiarity with frequency -- my
16 familiarity with frequency regulation markets is
17 broad, I would say, in the sense that I have
18 familiarity with the economics around frequency
19 regulation, participation. I understand what it is
20 and what service it provides to the grid. And I've
21 looked at it in a variety of wholesale markets across
22 the country as one of the applications of generator
23 resource as well as specifically energy storage
24 resources.

25 Q. Would you agree it's a highly competitive

1 market in each RTO?

2 A. Frequency regulation is generally a
3 market that is open for merchant participation in
4 various markets, yes.

5 MR. OLIKER: Okay. Thank you, your
6 Honor. No more questions.

7 Thank you, Mr. Higgins.

8 EXAMINER WALSTRA: Thank you.

9 Mr. Healey.

10 MR. HEALEY: Nothing, your Honor.

11 EXAMINER WALSTRA: Duke?

12 MR. MIZELL: Down here, your Honor.

13 Your Honor, preliminarily, Duke would
14 like to make a motion to strike certain portions
15 Mr. Higgins's testimony and I have the specific line
16 references. I'll read it for the record.
17 Specifically, page 5, line 18, through page 6,
18 line 3. And then page 10, line 1, through page 28,
19 line 5.

20 EXAMINER WALSTRA: Slow down a second.

21 MR. OLIKER: I am sorry. Can we start
22 over, Mike? You lost me.

23 MR. MIZELL: Sure. Page 5, line 18,
24 through page 6, line 3. Then page 10, line 1,
25 through page 28, line 5. And finally page 30,

1 line 19, through page 3, line 5.

2 Your Honor, these provisions that I've
3 outlined here, the specific provisions that I've
4 outlined are not relevant, and outside the scope of
5 these proceedings. The witness, himself, your
6 Honors, describes his testimony as it pertains to the
7 parts that are in this proceeding and to separate
8 parts that are "in the long-term" part of the
9 PowerForward process. So by the witness's own
10 admission, parts of his testimony relate to incidents
11 outside -- outside the scope of this proceeding.

12 In fact, the majority of the witness's
13 testimony relates to his suggestions for PowerForward
14 and not to the proposed pilot. Specifically, he
15 makes recommendations for what the PUCO should do in
16 PowerForward -- in the PowerForward proceeding, and
17 the witness is certainly free to provide comments to
18 the PUCO as part of that proceeding, but that does
19 not make them proper or, more importantly, relevant
20 to the proposed pilot in this proceeding.

21 MS. FLEISHER: Your Honor, if I may, I
22 would say that in our view, and as supported by our
23 witness's testimony, there is a relationship between
24 what is going on in this proceeding and what is going
25 on in PowerForward in terms of both looking at the

1 potential for non-wires resources to provide
2 distribution services to the utility and its
3 customers. And I think a key part of Mr. Higgins's
4 testimony is explaining how changes to what is
5 proposed in the stipulation could be vital to
6 producing lessons and knowledge and information that
7 would then inform what might come out of
8 PowerForward. So they are intertwined. You can't
9 separate them and that's just a key piece of why we
10 are seeking the modifications that we are seeking in
11 this case.

12 MR. MIZELL: And, your Honor, if I could
13 just briefly point out the proceedings --
14 specifically, we left Mr. Higgins -- we did not make
15 a motion to strike Mr. Higgins's positions in his
16 testimony as it relates to this specific pilot and
17 the applications the Commission should make to this
18 specific pilot. But, again, that does not make his
19 positions of what he recommends the Commission do in
20 PowerForward be a separate proceeding relevant to
21 these proceedings before us today.

22 MR. HEALEY: Your Honor, I would just add
23 there is a PowerForward Rider here, including a
24 specific provision that says here is Component One of
25 the PowerForward Rider which will allow Duke to

1 charge customers for anything that comes out of
2 PowerForward. If Duke would like to withdraw that
3 from the stipulation, that's fine. But to say
4 PowerForward is outside the scope of this, while they
5 are specifically asking for compensation for
6 PowerForward initiatives, you know, they don't get it
7 both ways.

8 MR. MIZELL: Your Honor, that's not what
9 we are discussing here. The PowerForward Rider is
10 separated pending the outcome of the separate
11 PowerForward proceeding. And again, Mr. Higgins is
12 free to provide whatever kind of advice he would like
13 to the Commission in that separate distinction
14 proceeding.

15 EXAMINER WALSTRA: I'm going to deny the
16 motion to strike. Obviously there is references in
17 the stipulation to the PowerForward Rider. But I
18 think historically, in terms of these ESPs,
19 especially I think the -- we've been pretty liberal
20 for intervenors to make proposals and proposed
21 modifications. So I'll allow the testimony to stand.

22 MR. MIZELL: Thank you, your Honor.

23 - - -
24
25

CROSS-EXAMINATION

By Mr. Mizell:

Q. Mr. Higgins, how are you?

A. Good morning.

Q. Welcome to Ohio.

A. Thank you.

Q. Did you bring the good weather with you?

We've had a beautiful day out there today.

Just a few questions.

A. Of course.

Q. Specifically, and I believe you have your testimony in front of you, on page 7, line 13 of your testimony, you state that "The Company will primarily use the Battery System for distribution system benefits such as backup power"; is that correct?

A. I do state that, yes.

Q. Is that still your belief today?

A. That was based on the direct testimony of Mr. Kuznar.

Q. I was going to say, have you read Witness Kuznar's testimony?

A. Yes.

Q. And is it fair -- and specifically, isn't it correct Witness Kuznar testifies that the energy storage will be used primarily to provide system

1 benefits and that backup power services will only be
2 provided during grid outages?

3 A. Do you have the testimony available for
4 me to review?

5 Q. We can see if we have a copy of it. No,
6 I'm sorry.

7 A. Okay. Well, in my testimony I state that
8 it will primarily use battery system for distribution
9 benefits. I did provide an example of backup power
10 as being one of those benefits, but that was not
11 necessarily excluding other distribution system
12 benefits.

13 Q. And isn't it correct that Witness Kuznar
14 mentioned a number of different distribution system
15 benefits and made specific references in his
16 testimony?

17 A. Yes.

18 MS. FLEISHER: Sorry, I didn't mean to
19 step on my witness. Your Honor, could I just object
20 to this line of questioning to the extent it's asking
21 him to offer his opinion on what Duke's own witness
22 is testifying to. Mr. Kuznar testified. His
23 testimony is what it is. I don't see how it's
24 relevant to hear what Mr. Higgins thinks Mr. Kuznar
25 said, especially without a copy of the testimony in

1 front of him.

2 MR. MIZELL: Your Honors, it's
3 foundational and it's impeachment. Mr. Higgins makes
4 the statement in his testimony that it will be
5 primarily used for system benefits such as backup
6 power, when, in fact, Mr. Kuznar's testimony -- what
7 I am getting to is Mr. Kuznar's testimony, in fact,
8 lists many other system benefits that Mr. Higgins
9 failed to mention in his testimony.

10 MR. OLIKER: And, your Honor, I would
11 also like to object. The witness also indicated that
12 he is not testifying regarding the services that Duke
13 is actually permitted to offer with these batteries
14 under the stipulation, which is the real issue in
15 this trial. Going back and forth about what may or
16 may not be allowed or offered in Mr. Kuznar's
17 testimony, which was submitted before the stipulation
18 was executed, is really not a relevant line of
19 cross-examination.

20 EXAMINER WALSTRA: I'm going to -- I'll
21 overrule. I'll allow the question.

22 MR. MIZELL: Could you read back the last
23 question for me, please.

24 (Record read.)

25 Q. And so, you would agree that those --

1 Mr. Higgins, would you agree that those other
2 distribution service benefits are actually some of
3 the -- are the primary focuses of the Duke Energy
4 pilot?

5 A. I couldn't say specifically whether they
6 are the primary focus. However, I would agree that
7 in testimony a variety of different distribution
8 benefits were cited and, from my experience, there
9 are a variety of different applications that could be
10 tested through the use of energy storage. What the
11 primary benefit would be for this project is very
12 location-specific and circumstance --
13 circumstance-specific.

14 Q. And, Mr. Higgins, it's correct at this --
15 is it your understanding that at this point no
16 specific location for the project has been
17 identified?

18 A. That was my understanding.

19 Q. And so, then is it correct to say that
20 your testimony would be that the primary services
21 would only be identified when a location is
22 identified and a project outlined?

23 A. I believe you can go into a process with
24 a well-defined framework of what the potential
25 benefits could be and how you would value them. And

1 I do actually believe that is an important component
2 here when you are doing -- when you are moving
3 forward with site selection so you can understand how
4 the system would be valued and you have a methodology
5 in place to be able to identify what those primary
6 benefits would be once you've identified potential
7 sites.

8 Q. Mr. Higgins, do you have any independent
9 knowledge of how Duke Energy presently handles
10 non-wire alternative suggestions or projects?

11 A. Specifically, aside from the materials
12 provided in this particular case, I do not. However,
13 I am familiar with utility practices in this space,
14 generally speaking, having worked for a utility
15 myself and worked with a number of other utilities on
16 the development of non-wires alternative processes.

17 Q. And have you worked with Duke Energy on
18 those issues?

19 A. Not specifically. However, I will say
20 that, generally speaking, utility processes do not
21 necessarily vary that much from one region to the
22 next as they're well -- I would say there is a long
23 history of distribution planning from one place to
24 the next and it's not that different necessarily from
25 one utility to the next aside from just the unique

1 nature of each utility's service territory.

2 Q. So is it your testimony all utilities act
3 the same?

4 A. No, I wouldn't say that. Every
5 jurisdiction has its unique regulatory environment,
6 and utilities may have slightly different processes
7 from one place to the next, but the fundamental
8 purpose of distribution planning is the same and,
9 generally speaking, the processes would be fairly
10 consistent from one jurisdiction to the next, one
11 service territory to the next.

12 MR. MIZELL: One minute, your Honor.

13 Your Honor, no further questions.

14 EXAMINER WALSTRA: Thank you.

15 Staff?

16 MR. EUBANKS: Staff has no questions.

17 EXAMINER WALSTRA: Thank you.

18 Any redirect?

19 MS. FLEISHER: No redirect.

20 EXAMINER WALSTRA: Thank you.

21 THE WITNESS: All right. Thank you.

22 EXAMINER WALSTRA: Would you like to move
23 your exhibit?

24 MS. FLEISHER: Yes, your Honor. I would
25 like to move ELPC Exhibit 3 into evidence.

1 EXAMINER WALSTRA: Thank you.

2 Subject to the motions to strike, any
3 objections?

4 MR. MIZELL: Not subject to those motions
5 to strike, your Honor.

6 EXAMINER WALSTRA: Thank you.

7 It will be admitted

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 EXAMINER WALSTRA: Let's go off the
10 record.

11 (Discussion off the record.)

12 EXAMINER WALSTRA: We'll go back on the
13 record.

14 MR. MICHAEL: Your Honor, OCC is going to
15 call James Wilson to the stand as its next witness.
16 However, before we actually call him, OCC would like
17 to move the Bench for a ruling that Mr. Wilson's
18 nominal aggregate cost figure for Rider PSR be made
19 part of the public record. And if the Bench and the
20 company are agreeable to that, OCC proposes filing a
21 revised version of Mr. Wilson's public testimony to
22 reflect the fact that Mr. Wilson's aggregate nominal
23 cost figure for Rider PSR be part of that public
24 testimony.

25 EXAMINER WALSTRA: Thank you.

1 We had some discussions off the record
2 and I believe all parties are in agreement with that
3 and it's consistent with similar rulings with other
4 forecasting witnesses.

5 MR. MICHAEL: Thank you, your Honor.

6 OCC calls James F. Wilson to the stand.
7 And we would like to have premarked, your Honor,
8 Mr. Wilson's public testimony as OCC Exhibit No. 11,
9 and Mr. Wilson's confidential testimony as OCC
10 Exhibit No. 11A.

11 EXAMINER WALSTRA: So marked.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 (Witness sworn.)

14 EXAMINER WALSTRA: Thank you. Please
15 take a seat.

16 - - -

17 JAMES F. WILSON

18 being first duly sworn, as prescribed by law, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Michael:

22 Q. Would you state your name, please.

23 A. James F. Wilson.

24 Q. And where are you employed, Mr. Wilson?

25 A. I'm an independent economist doing

1 business as Wilson Energy Economics, located at 4800
2 Hampden Lane, Suite 200, in Bethesda, Maryland 20814.

3 Q. And, Mr. Wilson, do you have in front of
4 you what was previously marked as OCC Exhibit No. 11
5 and OCC Exhibit No. 11A?

6 A. I believe that would be my direct
7 testimony and 11A?

8 Q. Confidential.

9 A. Okay. I have my confidential testimony
10 before me, yes.

11 MR. MICHAEL: May I approach real
12 quickly?

13 EXAMINER WALSTRA: You may.

14 Q. I am going to hand you, Mr. Wilson, a
15 copy of the public version just so we can keep them
16 straight, so that will be 11, and your confidential
17 is 11A. And drawing your attention to OCC Exhibit
18 No. 11, Mr. Wilson, the public version of your
19 testimony, was that testimony prepared by you or at
20 your direction?

21 A. Yes.

22 Q. And drawing your attention to OCC Exhibit
23 No. 11A, the confidential version of your testimony,
24 was that testimony prepared by you or at your
25 direction?

1 A. Yes, it was.

2 Q. Do you have any modifications to either
3 Exhibit 11 or 11A, Mr. Wilson?

4 A. I do not.

5 Q. And were I to ask you the questions in
6 those exhibits today, would your answers be the same?

7 A. Yes.

8 MR. MICHAEL: OCC moves for the admission
9 of Exhibits 11 and 11A, your Honor, subject to
10 cross-examination.

11 EXAMINER WALSTRA: Thank you.

12 Any cross over here?

13 Mr. Oliker?

14 MR. OLIKER: No, thank you, your Honor.

15 EXAMINER WALSTRA: Duke?

16 MR. MILLER: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Miller:

20 Q. Good morning, Mr. Wilson. My name is
21 Chris Miller, and I'm a lawyer with the law firm Ice
22 Miller, and I represent the company in this
23 proceeding. I believe I deposed you. Thank you for
24 your time on that. How are you this morning?

25 A. Great.

1 Q. So when we talked a little bit in your
2 deposition, you work for Wilson Energy Economics, and
3 I believe you indicated that you were the principal;
4 is that correct?

5 A. Yes.

6 Q. And you indicated you were an economist
7 with a small e. What does that mean, "small e"?

8 A. Well, you had suggested that was my
9 title. And that's why I said "small e." The title I
10 use is principal.

11 Q. Okay. All right. "Economist" to me
12 sounds better, but.

13 You're not an attorney?

14 A. No.

15 Q. And you don't have any legal training?

16 A. No.

17 Q. And you hesitate. I'm curious. Formal
18 legal training, do you have any informal legal
19 training?

20 A. Well, I've been working with attorneys
21 for 30 years.

22 Q. I thought that might be your answer.

23 A. My son has a law degree.

24 MR. MICHAEL: And he stayed at a Holiday
25 Inn last night.

1 A. No, I didn't.

2 Q. And you prepared the testimony that you
3 submitted on June 25, both the confidential and
4 nonconfidential in this proceeding, correct?

5 A. Yes.

6 Q. And did you receive any assistance or
7 guidance from anybody else in preparing or did you do
8 it yourself?

9 A. Myself.

10 Q. Prior to preparing that testimony, you
11 submitted on June 25, can I ask you what you reviewed
12 in preparation for compiling your thoughts and ideas?

13 A. For compiling?

14 Q. Your thoughts and ideas, I'm sorry.

15 A. Thoughts and ideas.

16 Q. Before you prepared your testimony.

17 A. Yes. Well, I reviewed the original
18 testimony -- application and the testimony and all
19 the discovery around that, beginning in the spring of
20 2017. I reviewed the stipulation settlement and the
21 associated testimony there and additional discovery.
22 And let's see, what else did I review? Probably
23 forgetting a few things but. Of course, I accessed
24 various public information, PJM and such, in doing my
25 research.

1 Q. And you said you reviewed the testimony
2 of the parties. And just so I understand, did you
3 review all the witnesses that the company proffered
4 in regards to supporting the original application?

5 A. Well, as we discussed, I focused on
6 Wathen and Rose, of course, which are relevant to the
7 work I was doing. And for the other pieces of
8 testimony, I would typically review it through to the
9 purpose of the testimony and maybe the main
10 conclusions, take a look at that, and if it really
11 didn't touch on what I was doing, then I would
12 probably leave it at that.

13 Q. And then on the supplemental testimony
14 filed in this case after the stipulation was executed
15 by the various parties, you still focused on Wathen
16 and Rose?

17 A. Wathen and Rose, I also reviewed Spiller
18 and a few others, Fetter, Fisher, Donlon, there might
19 be a few others.

20 Q. Murderers row, right?

21 A. I don't know. I haven't met these people
22 so I.

23 Q. Did you review testimony filed by the
24 intervening parties in regards to their support for
25 or their opposition to the stipulation?

1 A. Yes, I did review some of those pieces.

2 Q. Do you know if you reviewed all of it or
3 just bits and pieces?

4 A. Well, again, I would get as far as the
5 purpose of the testimony. And my scope here is so
6 narrow compared to all the various topics in the
7 stipulation, so in many cases I would not get far
8 past the purpose of the testimony because it just
9 didn't touch.

10 Q. Okay. Fair enough.

11 And you indicated your scope is narrow.
12 So I believe you're appearing here today as an expert
13 in the economics of public utility matters, industry?

14 A. Well, the main purpose of my -- one of
15 the main topics of my testimony is the economic
16 analysis of the OVEC plants, yes.

17 Q. And you're appearing as an economist,
18 correct?

19 A. Yes.

20 Q. And not as a regulatory expert?

21 A. Well, I have been very involved in
22 regulatory issues and so I consider that I have
23 expertise on regulatory issues, yes.

24 Q. Do you have any training in regulatory
25 analysis?

1 A. Well, I'm not sure what you mean by
2 "regulatory analysis," but, you know, an economist is
3 someone who evaluates many regulatory issues, all the
4 time.

5 Q. Are you an accountant?

6 A. No.

7 Q. And you've testified, I believe when we
8 talked in your deposition and you indicated this in
9 your testimony that you've testified in other
10 proceedings in front of the Commission; is that
11 correct?

12 A. Yes.

13 Q. And I think you testified on behalf of
14 the OCC in most of these?

15 A. Yes.

16 Q. And I believe specifically you testified
17 in Case No. 14-1693-EL-RDR, et al., which is known as
18 the AEP PPA, case?

19 A. Yes.

20 Q. And in doing so, I want to kind of get an
21 understanding of perhaps what your involvement was.
22 In doing so, preparing your testimony for that case,
23 you reviewed the PPA rider; is that correct?

24 A. Yes.

25 MR. MICHAEL: Objection, your Honor,

1 relevance. What Mr. Wilson did to offer his
2 testimony in a completely different case involving a
3 completely different company has no bearing on his
4 testimony here today.

5 MR. MILLER: I think traditionally, your
6 Honor, when a witness lists his CV and his resume in
7 testimony and indicates he testified in front of
8 other proceedings in front of the Commission, we have
9 an opportunity to ask him questions about those
10 proceedings and perhaps the testimony he gave and I
11 believe that's in there for the opportunity to offer
12 potential impeachment.

13 EXAMINER WALSTRA: Overruled.

14 A. Yes.

15 Q. You filed, I think, correct me if I am
16 wrong, two separate pieces of testimony in the AEP
17 PPA case, one was an initial piece regarding the
18 original proposal and then there was a supplemental
19 piece of testimony regarding a modified and updated
20 proposal following the execution of the stipulation
21 between the parties in that case; is that correct?

22 A. There might have been three.

23 Q. Were there three?

24 A. My CV would clarify that. Well, I have
25 direct testimony on September 11, 2015; a deposition;

1 supplemental deposition; testimony at hearing;
2 supplemental testimony; second supplemental
3 deposition; testimony at hearing. So I guess that's
4 two direct filings.

5 Q. Two direct. One supplemental -- let's
6 call them one direct and one supplemental; is that
7 fair?

8 A. Okay.

9 Q. And you were deposed on all those, I take
10 it, based on your description?

11 A. It looks like I was deposed perhaps three
12 times.

13 Q. I would say congratulations but.

14 So I think in your initial testimony, if
15 you can remember, in your initial testimony you filed
16 in the AEP PPA case, your recommendation was the PPA
17 Rider be rejected by the Commission; is that correct?

18 A. Yes.

19 Q. And I think you concluded the same thing
20 in your supplemental, your secondary piece of
21 testimony.

22 A. Yes, I believe I did.

23 Q. And when you did your analysis in that
24 case, you did a rather comprehensive economic
25 analysis, if I remember, just taking a brief look at

1 it, in regards to putting your testimony together; is
2 that true?

3 A. Yes.

4 Q. Can you just briefly describe the scope
5 and perhaps the type of analysis you might have
6 performed in that case to prepare your testimony?

7 A. Well, my recollection is that -- and, of
8 course, there were different iterations and I chose
9 different approaches in each case for various
10 reasons, but as I recall that case involved a number
11 of coal plants, some of which were more economic than
12 others and, consequently, under my assumptions, which
13 had more modest energy prices, it was necessary to
14 take into account that that would affect the dispatch
15 of the plants.

16 So I actually ran an hourly analysis that
17 took into account that under lower energy prices, the
18 plants would be dispatched less frequently because
19 the prices would actually be below their variable
20 cost to generate. So it affected the generation
21 amounts, in addition to the earnings that they would
22 make. It was a more complicated analysis, yes.

23 Q. And I think you indicated in your
24 commentary there, it involved a number of coal
25 plants. Did it involve the OVEC plants? Do you

1 remember?

2 A. Yes.

3 Q. And do you know, subsequent to the
4 stipulation, did it also involve additional plants or
5 just the OVEC plants? Do you remember?

6 A. At some point it fell back to just the
7 OVEC plants as I recall, but I don't recall whether I
8 evaluated additional plants in the supplemental or
9 not.

10 Q. And did you have the opportunity, as you
11 followed along this case, it was a rather long and
12 tortured case, did you have an opportunity to review
13 the Commission orders in that case?

14 A. Yes.

15 Q. And the Commission did not agree with
16 your analysis in regards to rejection of the PPA, did
17 it?

18 A. I think I recall some criticisms there,
19 yes.

20 Q. And the Commission ultimately approved,
21 in some form, AEP's PPA Rider, correct?

22 A. Yes.

23 Q. And I believe you also testified on
24 behalf of the OCC in, I think in Northeast Ohio
25 Public Energy Council, also known as NOPEC? Welcome

1 to Ohio, sir. We abbreviate and acronym everything.
2 And that was case in 14-1297-EL-SSO and that was also
3 known, I think we can refer to it, if you're
4 comfortable, as the FirstEnergy SSO case?

5 A. Okay.

6 Q. And you testified in that case, correct?

7 A. Yes.

8 Q. And your testimony in that case, among
9 other things, reviewed the proposed retail
10 stability -- retail rate stability rider, Rider RRS,
11 and its impact.

12 A. Okay.

13 Q. And okay yes or okay?

14 A. Well, I don't remember the exact acronym
15 in that particular instance.

16 Q. And let me try to, I guess, clean that up
17 a little bit for you. So it was a similar kind of
18 arrangement to what we are talking about here in the
19 sense it was an agreement to pass on some OVEC costs.

20 A. Yes. And other costs, other generation
21 costs.

22 Q. And, again, in that case, you filed two
23 pieces of testimony and there was, I believe, an
24 initial piece and there was again a supplemental
25 piece; is that correct?

1 A. I believe there was second supplemental
2 testimony in that proceeding.

3 Q. That may be the one --

4 A. According to the CV.

5 Q. That may be the one with two
6 supplementals.

7 A. And rehearing direct testimony also.

8 Q. And I think in that case similar, to the
9 AEP PPA case, this would be the FirstEnergy SSO case,
10 you concluded that the requested rider should be
11 rejected by the Commission; is that correct?

12 A. Yes. I took issue both with the rider
13 conceptually and with the uneconomic resources that
14 were asked to be passed through the rider. So there
15 were really kind of two issues there. I objected to
16 the rider as a regulatory mechanism for that sort of
17 application, and I also found that the resources that
18 they were seeking to recover the costs of were
19 uneconomic.

20 Q. And some of those resources, the majority
21 of those resources were the OVEC resources, correct?

22 A. Yes.

23 Q. And, again, in that case, similar to the
24 AEP case, you did a, I think, a rather comprehensive
25 analysis, economic analysis?

1 A. Yes, I believe I did that time.

2 Q. It was a similar type of analysis as what
3 you performed in AEP?

4 A. It was different. I believe it was
5 similar but different.

6 Q. Some of the inputs may be different?

7 A. I think -- I think there were other
8 changes in the methodology, minor changes in the
9 methodology, and each case poses a little bit of
10 different challenge, and it also depends on how I've
11 chosen to modify the original analysis.

12 So, typically, I take an original
13 analysis, you know, Mr. Rose or whoever, and I want
14 to make as few changes as possible to make it a lot
15 more realistic, but without getting super
16 complicated. And that's why the methodology might
17 change from one case to another because I'm going to
18 accept a lot of assumptions and only modify, you
19 know, the ones that seem most out of line. And then,
20 in that context, that determines whether it's
21 necessary to redo the dispatch or not for instance.
22 So the methodology did change a little bit from case
23 to case.

24 Q. Do you remember -- let's say from the AEP
25 PPA case, did you accept a lot of the assumptions

1 that were provided?

2 A. I always do, yes.

3 Q. And the same for FirstEnergy?

4 A. Yes. Even some I don't agree with, I
5 accept, because I'm trying to make a minimal set of
6 changes.

7 Q. Did you happen to review the Commission
8 Orders in the FE SSO case?

9 A. I probably did at some point.

10 Q. And do you remember, did the Commission
11 agree with your analysis in regards to rejection of
12 the rider?

13 A. I don't recall, but probably not.

14 Q. And the Commission ultimately approved
15 Rider RSR, correct?

16 A. I believe they approved some of these,
17 yes.

18 Q. Let's turn to your testimony, if you
19 would, on page 3. And near the bottom this would be
20 lines 19 and 20, I believe, and this runs through
21 page 4, the next page, line 1, I think you indicate
22 one of your primary objectives in compiling your
23 testimony was to review the testimony of the company
24 Witness Judah Rose and provide an alternative
25 estimate or alternate estimate, right?

1 A. The assignment, yes. I am not sure
2 "objective" is the right word, but yes, that's part
3 of what I did.

4 Q. And did you review Mr. Rose's
5 supplemental testimony filed June 6, 2018, in this
6 case?

7 A. Yes.

8 Q. Mr. Rose's testimony, his supplemental
9 testimony, included a forecast regarding Rider PSR
10 covering the time period from January 1, 2018,
11 through May 31, 2025; is that correct?

12 A. Yes.

13 Q. And I think you state on page 10 of your
14 testimony, lines 10 and 11, that Mr. Rose's forecast
15 isn't -- I believe I have this correct -- is somewhat
16 optimistic, but within a reasonable range for 2018
17 through 2021; is that correct?

18 A. Yes, that's my opinion.

19 Q. And you also state that Mr. Rose's
20 forecast for the years 2022 to 2025, and I believe
21 this is per your description on page 10, line 14, is
22 "questionable." Do you see that?

23 A. Yes. Of course, I expand on the
24 "questionable."

25 Q. Yes. Understood. Because Mr. Rose's

1 forecast is, in your opinion, questionable for that
2 time period, I think you state on page 10, lines 19
3 through 20, that you prepared an alternative estimate
4 to Mr. Rose's net cost analysis of the OVEC
5 entitlement estimates to customers, and I think you
6 based that on a very simple assumption and
7 calculation, correct?

8 A. Correct.

9 Q. And in order to get there, you used
10 Mr. Rose's calculations for the '18 through '21 net
11 OVEC margins in that very simple assumption and
12 calculation; is that correct?

13 A. Yes.

14 Q. And you used the average, and tell me if
15 I am wrong, you used the average of Mr. Rose's
16 numbers for the '18 through '21 period to arrive at
17 your '22 through '25 forecast?

18 A. Yes. Under his forecast, things start
19 changing very sharply, after 2021 in a manner
20 favorable to the plants. He has both energy and
21 capacity prices rising. That seemed very unrealistic
22 to me. I consider it to be more likely that after
23 2021 things will worsen for the plants consistent
24 with, you know, forward prices which continue
25 downward.

1 So I felt that it was a conservative
2 assumption to assume that things don't get worse
3 after 2021, when, you know, I think it's probably
4 more likely they are going to worsen, but to assume
5 they just don't get worse, just stay the same after
6 2021, that's actually a conservative assumption
7 that's a little bit more favorable to the plants than
8 I would think things are really going to turn out to
9 be. So that's why I chose that assumption.

10 Q. And, again, I think we mentioned this
11 before, you did indicate in your testimony that his
12 assumptions, Mr. Rose's assumptions for '18 through
13 '21, were -- and I think I am quoting -- were
14 optimistic, but within the margins, within the
15 expectational margins of what you -- what you would
16 normally see?

17 A. They are within a reasonable range.

18 Q. Thank you.

19 A. In his previous testimony in March of
20 2017, he had energy and capacity prices rising very
21 sharply and very soon. I was surprised to see in
22 this case that he actually had 2018 through 2021
23 looking a lot more reasonable; much different than in
24 his testimony a year earlier.

25 Q. Essentially, you simply relied on

1 Mr. Rose's numbers for your calculation, didn't you?

2 A. I -- I took the average of those numbers
3 and proceed -- and used them for the forward period
4 which is conservative compared to actually
5 forecasting a worsening circumstance after that
6 point.

7 Q. If you turn to page 10, lines 20 and 21.
8 I believe you suggest that you assumed that the
9 economic outcomes forecasted for '18 to '21 do not
10 improve and, in parentheses, "or worsen" after
11 '21, correct?

12 A. Correct.

13 Q. Did you perform, in your analysis, any
14 calculations with net margin averages lower than what
15 Mr. Rose proposed, assuming lesser returns?

16 A. This is the calculation I performed, the
17 one described here.

18 Q. That one.

19 A. Yes.

20 Q. And you didn't perform any calculations
21 with net margin averages higher than what Mr. Rose
22 performed and used, assuming higher returns?

23 A. Well, in my testimony I made that one --
24 I presented that one calculation.

25 Q. You didn't perform any other analysis of

1 the OVEC net margins calculations?

2 A. Well, I had performed an analysis that
3 ultimately I didn't testify to; but in terms of my
4 testimony, that's what I did, that one calculation.

5 Q. Did you provide additional workpapers to
6 the company in regards to that analysis you may have
7 performed?

8 A. Well, I mean, it's sort of intermediate
9 efforts. Originally I considered doing something a
10 lot more complicated like I had in the AEP and FE
11 cases, for instance. And then after reviewing all
12 the information, I decided to do something very
13 simple and transparent and not something more
14 complicated. So there were some intermediate
15 unfinished efforts, but this is what I actually -- I
16 ultimately decided to present.

17 Q. And so actually my next couple of
18 questions, which I will put into one, I think you can
19 answer quickly, you didn't perform as comprehensive
20 an analysis in this case as you did in the AEP PPA or
21 FES SSO, did you?

22 A. That's correct. It wasn't necessary in
23 this case.

24 Q. Mr. Wilson, on page 12, lines 22, through
25 page 13, line 1 of your testimony, you basically

1 state -- correct me if I'm wrong -- "coal remains a
2 larger source of generation in PJM than natural
3 gas...." Do you see that?

4 A. Yes.

5 Q. And do you still agree with that
6 statement?

7 A. Yes. It's from the State of the Market
8 Report.

9 Q. That's interesting. I guess my next
10 question, are you familiar with the State of the
11 Market Report for PJM?

12 A. I am.

13 Q. And it's published annually by PJM's
14 Market Monitor, Monitoring Analytics; is that
15 correct?

16 A. Yes.

17 MR. MILLER: Your Honor, may we approach?

18 EXAMINER WALSTRA: You may.

19 MR. MILLER: And we are going to mark
20 this document Duke --

21 EXAMINER WALSTRA: I have 33.

22 MR. MILLER: 33.

23 Q. So, Mr. Wilson, what I am having handed
24 out to you, and I am hopeful Emily is going to hand
25 out a complete copy of the 2018 State of the Market

1 Report compiled by Marketing -- Monitoring Analytics
2 LLC, dated May 10, 2018. I'm also having a complete
3 copy provided to your counsel, a complete copy
4 provided to the Bench, and a complete copy provided
5 to the court reporter. Because this document is over
6 600 pages in length, I'm going to --

7 MR. MICHAEL: Mr. Miller, I think your
8 colleague has indicated that she's passing out the
9 wrong document so.

10 MR. MILLER: No. Big book.

11 Thank you, Mr. Michael.

12 We are going to try again and what we are
13 going to pass out this time, we're going to pass out
14 an entire copy of the 2018 State of the Market Report
15 to the Bench, to the court reporter, to opposing
16 counsel, your counsel, Mr. Wilson. And then we are
17 also going to pass out summary versions, because this
18 is a 600-page-plus document, to everyone else.
19 Everyone received a bound summary version with some
20 prefatory material and the potentially four pages I
21 think we'll talk about.

22 MR. OLIKER: Chris, could I have the date
23 on the document, so I can pull it up online?

24 MR. MILLER: Yes. 5-10-2018.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. While we are passing that out, have you
2 seen this document before, sir?

3 A. Well, this is the first quarter 2018, so
4 I am a not sure I actually have reviewed first
5 quarter 2018.

6 Q. But you're familiar in general with the
7 report and it comes out on a regular basis?

8 A. Yes, I work with the annual report
9 typically.

10 Q. And can I ask you to turn to page 554 of
11 that document.

12 A. 554.

13 Q. 554, yeah. I apologize for the length,
14 but I did want you to have the whole version.

15 A. Yes.

16 Q. And on that page do you see Table 12-12?

17 A. Yes.

18 Q. Can you take a moment to review that
19 table and take a look at it and familiarize yourself
20 with it, please.

21 A. Yes. I'm ready.

22 Q. So we agree that this is a table showing
23 the total current capacity in the PJM by unit type?

24 A. Yes. This is capacity, yes.

25 Q. And can we agree that the columns in the

1 table entitled "Combined Cycle" and "CT-Natural Gas"
2 which are, I believe, as we look across the table,
3 the second and third column, represent gas-fired
4 generation in PJM?

5 A. Yes.

6 Q. And --

7 A. Much of it does have dual fuel
8 capability, yes.

9 Q. And if you add up the totals in those two
10 columns, would you agree, subject to check, and if
11 you -- I am happy to provide you a calculator if you
12 want, it's easier, I don't know if you have one up
13 there -- between the combined cycle and natural
14 gas-fired combustion turbines as of March 31, 2018,
15 and that's the date shown in the table, the total
16 gas-fired capacity is a little over 64,000 megawatts?

17 A. Yes. You are not including the "Steam-
18 Natural Gas" further down but, yes.

19 Q. That would be additional?

20 A. Yes.

21 Q. Now, if you slide over and go to the
22 column entitled "Steam-Coal" which I believe is four
23 over, not including the "Total," from the right.

24 A. Yes.

25 Q. And what does the figure on the bottom of

1 that table, the --

2 A. 60,788.9.

3 Q. So it's a little over 60,000 megawatts,
4 correct?

5 A. Yes.

6 Q. So knowing that, in looking at those two
7 pieces of information, do you still stand by the
8 statement that coal remains the largest source of
9 generation over natural gas?

10 A. Yes. These are megawatt values. Fuel
11 diversity is about fuel which is gigawatt hours, not
12 megawatts. So if you can find the table that shows
13 that, I suspect it will show that coal remains the
14 largest source. And certainly in the report from the
15 2017 annual coal and nuclear are both around
16 34 percent of the gigawatt hours and natural gas is
17 about 27 percent of the gigawatt hours. So if we are
18 talking about fuel, we are talking about generation,
19 not capacity typically.

20 Q. So you're not talking about capacity at
21 all.

22 A. When -- my comments about fuel diversity
23 had to do with generation, gigawatt-hours, yes.

24 Q. And I think you used the word "source" in
25 your statement; is that correct?

1 A. Which statement when?

2 Q. Well, I think it was -- maybe we'll go
3 back. Let's look at page 12, lines 22 through
4 page 13. You say "coal remains a larger source of
5 generation...."

6 A. Yes.

7 Q. Isn't "source" necessarily capacity?

8 A. Well, by "generation" we typically mean
9 gigawatt-hours. In Mr. Rose's materials, when he
10 refers to generation, he's talking about the
11 generation, the gigawatt-hours, not the capacity,
12 which is the standing ready to provide generation;
13 so, yes, I was talking about actual use of fuel to
14 generate.

15 Q. Would you disagree with these figures in
16 regards to the percentages?

17 A. To the State of the Market Report?

18 Q. Correct.

19 A. I think the State of the Market Report is
20 accurate as far as I know, yes.

21 Q. So we still -- looking at these tables,
22 it still illustrates the fact we have more natural
23 gas than we do coal, correct?

24 A. Are you referring to the table that shows
25 installed capacity?

1 Q. I'm referring to the table that I showed
2 you, correct.

3 MR. MICHAEL: Your Honor, I am going to
4 object to the question as vague, ambiguous. It's
5 obvious that Mr. Wilson, as an expert, is describing
6 actually what is happening -- happening in the market
7 and actually the correct terminology used in the
8 market.

9 It's equally apparent that perhaps
10 Mr. Miller is talking about something vastly
11 different and he is trying to draw a correlation
12 between the two, and I think trying to draw that
13 correlation is improper. As Mr. Wilson explained
14 very succinctly, Mr. Miller is trying to compare
15 apples to oranges, and I think any further comparison
16 in doing that is simply inappropriate. He has got to
17 be more precise and talk actuality rather than things
18 that have no relation to one another.

19 EXAMINER WALSTRA: Overruled.

20 THE WITNESS: The question, please?

21 MR. MILLER: Do you want it read back?

22 MR. MICHAEL: Can you read the question
23 back, please, Karen.

24 (Record read.)

25 A. Okay. This table, which is for first

1 quarter of 2018, shows installed capacity by capacity
2 type and it shows indeed, as you wanted to establish,
3 that there is more natural gas-fired and gas-oil
4 fired installed capacity than coal at this time.
5 And, of course, that includes a lot of combustion
6 turbines that hardly ever run. But the facts about
7 generation, about actual creation of electricity,
8 continue to show that nuclear and coal are the
9 largest sources of generation in PJM and natural gas
10 is third.

11 MR. MILLER: Your Honor, I am going to
12 move to strike everything in the second part of his
13 response that talks about generation, talks about
14 nuclear. I didn't ask him those questions and his
15 counsel objected to my line of questioning. I think
16 we have got a very specific question on the table.
17 He answered it I think concisely, but then continued
18 to run on.

19 MR. MICHAEL: Well, your Honor, as the
20 past four or five minutes of questioning, I think,
21 reveal, Mr. Wilson is an expert in this field.
22 Counsel asking questions is mixing up, making vague,
23 conflating different concepts. And as the expert in
24 the field, Mr. Wilson, and I think the Commission
25 deserves to have a straight answer, a clear answer,

1 and not mix different concepts up.

2 So Mr. Miller asked him a very broad
3 question that would continue the mix-up and
4 Mr. Wilson, yet again, clarified that they are
5 talking about two different concepts. His testimony
6 is perfectly consistent, as he pointed out, with what
7 the facts are as it relates to generation; and
8 Mr. Miller is asking him about capacity. I think the
9 record needs to be clear on those two different
10 concepts and that's what Mr. Wilson explained in
11 response to the answer.

12 EXAMINER WALSTRA: I think there was some
13 broadness to the question which I allowed, so I will
14 also allow some broadness in the answer.

15 MR. MICHAEL: Thank you, your Honor.

16 Q. (By Mr. Miller) Mr. Wilson, in that same
17 document, which is unfortunately large, will you turn
18 to page 65. Are you there, sir?

19 A. Yes, I am.

20 Q. On that page you'll note in the left-hand
21 side there are a number of bulleted items.

22 A. Yes.

23 Q. Can you take a look at the third bullet
24 down on that left-hand side.

25 A. Yes.

1 Q. Will you review that paragraph for me.

2 A. Yes.

3 Q. Can I ask you to read that paragraph?

4 MR. MICHAEL: Objection, your Honor.

5 They're offering this as an exhibit. It says what it
6 says, and having the witness read what the paragraph
7 says is not appropriate. He can ask him questions
8 about it, but asking him to read it is not proper.

9 EXAMINER WALSTRA: You are asking him to
10 read it out loud or just read it?

11 MR. MILLER: Sure.

12 EXAMINER WALSTRA: Was your question for
13 him to just read it?

14 MR. MICHAEL: Out loud.

15 MR. MILLER: Out loud.

16 MR. MICHAEL: And hence my objection.

17 EXAMINER WALSTRA: I think it says what
18 it says. If you have questions about it.

19 MR. MILLER: That's fine.

20 Q. (By Mr. Miller) So, Mr. Wilson, in the
21 queue for adding new generation and capacity in PJM,
22 based on this bullet point, it appears that
23 58,900 megawatts are expected to be gas-fired, and
24 108 megawatts are expected to be coal-fired; is that
25 correct?

1 A. Well, they are not expected to be. They
2 already are in the queue. Now, much of that will not
3 be built, of course, so I am not sure what you mean
4 by "expected to be." What's in the queue already is
5 either gas or coal. And as is typical, small
6 fractions of what's in the queue are actually built.

7 Q. Do you have any observation on how much
8 of the queue gets built?

9 A. Observation of how much of the queue gets
10 built?

11 MR. MICHAEL: Objection, your Honor.

12 Perhaps we could have a timeline,
13 Mr. Miller.

14 MR. MILLER: I believe the witness
15 answered the question that only small fractions of
16 what's in the queue gets built. Am I incorrect in
17 saying that?

18 THE WITNESS: Yes. No, it's true. There
19 are -- many projects enter the queue, there are many
20 issues to be resolved before a new plant actually is
21 built, so we find, over time, that some have are --
22 you know, interconnection costs which are huge or
23 they have trouble getting regulatory approvals, or,
24 due to market conditions, they delay.

25 So typically, you know, the queue is a

1 much larger number than what ultimately comes on
2 line. And PJM makes those calculations all the time,
3 so I just wanted to observe that.

4 Q. And, sir, you said "we find." Who is
5 "we"? I think you said "we find." I am not sure who
6 "we" is.

7 A. Over many years, PJM has an
8 interconnection queue. Many, many possible projects
9 enter the queue. And, over time, some of those
10 projects go away and some come on line and some are
11 still sitting there. And they regularly tally that
12 up and show the percentages by different resource
13 types. This is something that you can find many,
14 many copies of this on PJM's website. And, yes, we
15 find, PJM finds, stakeholders see it.

16 It's a very interesting phenomenon that
17 there are such optimistic project developers out
18 there and many of them are willing to spend quite a
19 bunch of money to get possibilities into the queue
20 and then ultimately they don't come through. So,
21 yes, we find that a lot of that capacity will
22 ultimately not be built. And, in a way, it's a good
23 thing because they are exploring a lot of different
24 projects and different locations. They find out,
25 over time, where capacity is more needed, where it's

1 less needed and, you know, that determines which ones
2 go forward and which ones fall by the wayside.

3 Q. So these projects are a good thing?

4 MR. MICHAEL: Objection. That's not what
5 he said.

6 EXAMINER WALSTRA: The witness can
7 clarify.

8 MR. MICHAEL: Thank you.

9 A. It's a good thing there are many
10 different developers always looking for opportunities
11 to bring forth new projects in places where they may
12 be needed and getting them into the queue because it
13 takes a long time to get through the queue and
14 pushing them forward.

15 I mean, it's a good thing, that, you
16 know, we weed down from many possible projects, you
17 know, those that are probably the ones that are most
18 needed and most economic. I would say that is a good
19 thing. Much better than, you know, there are not
20 enough projects and the ones that do come along
21 almost all of them are actually built.

22 Q. So this focus on building fuel diversity
23 is positive?

24 A. Now you are changing the subject.
25 Because we were talking about the interconnection

1 queue and the number of megawatts in the
2 interconnection queue.

3 Q. I was talking about the projects. You
4 indicated there are a lot projects people are looking
5 at doing.

6 A. Yes.

7 Q. Correct? And I think you indicated it
8 was positive that folks are out there working on
9 developing those projects.

10 A. Yes.

11 Q. And I would assume that, based on the
12 categories we cited, a lot of those projects are
13 different types of fuels.

14 A. Well, there's a lot of wind, there is a
15 lot of gas. There's not a lot of coal at present for
16 reasons that we are all familiar with.

17 Q. What's the big growth area? Is it gas?

18 A. Yes.

19 Q. And there's not much coal.

20 A. Correct.

21 Q. So in order to provide a little more
22 detail to what we are talking about, can I ask you to
23 turn to page 546.

24 EXAMINER WALSTRA: Can the Bench get one
25 of those smaller copies?

1 MR. MILLER: Smaller copy for the Bench.

2 EXAMINER WALSTRA: Thank you.

3 Q. Sir, if you can look at Table 12-3 which
4 I believe is on the bottom of that page. It's
5 entitled "Current project status"; is that correct?

6 A. Yes, "by fuel type."

7 Q. And we can agree that the columns in that
8 table entitled "Combined Cycle" and "CT-Natural Gas"
9 represent gas-fired generation again?

10 A. Yes.

11 Q. And if you add the totals up in those two
12 columns, would you agree, subject to check, between
13 the combined cycle natural gas and the natural
14 gas-fired combustion turbines, we've got about
15 58,278.9 megawatts in the queue?

16 A. Yes.

17 Q. And if you take a look at the column
18 entitled "Steam-Coal" again, slide over to that like
19 we did before, is the figure 108?

20 A. Yes.

21 Q. And if you take a look at Table 12-5 on
22 page 548, I believe this is also set up listing the
23 unit type again, correct?

24 A. Yes.

25 Q. And hopefully we can agree again that the

1 columns in the table entitled "Combined Cycle" and
2 "CT-Natural Gas" represent that gas-fired generation?

3 A. Yes.

4 Q. If you add the totals up in those two
5 columns, do you agree, subject to check, it also
6 states that between combined cycle and natural
7 gas-fired combustion turbines we've got about
8 58,278.9 megawatts of gas in the queue again?

9 A. Yes.

10 Q. And if you look at the column entitled
11 "Steam-Coal" again, slide over to that, it also says
12 108 megawatts; is that correct?

13 A. Yes. It's the same information just
14 broken out in more detail.

15 Q. I'm just checking.

16 Now, knowing that PJM is expecting 500
17 times more gas-fired megawatts to be added than coal,
18 do you believe coal would still be the primary source
19 of generation in the future for PJM?

20 A. Well, over time, there will be a shift.
21 I haven't done the analysis to figure out how many
22 years it will take it. Depends on coal retirements
23 and entry of new generation. Obviously that 58,000
24 megawatts in the queue isn't all going to be built;
25 some fraction of it will. So it's likely that more

1 coal will retire and at some point coal will fall
2 down below natural gas, but I haven't done any
3 analysis to determine when that might occur.

4 Q. And just quickly, and I think this will
5 perhaps finish up our time on this document, will you
6 turn to page 65 for me and then third bullet again
7 that very last line of this paragraph. Do you have
8 any reason to dispute what the report says, which is
9 "The replacement of coal fired steam units by units
10 burning natural gas will significantly affect future
11 congestion, the role of firm and interruptible gas
12 supply, and natural gas infrastructure"?

13 A. Well, sure. These are just generic
14 statements. He's not saying it's going to worsen
15 congestion or relieve it. But, yes, it will have
16 that impact.

17 Q. I think you can put this away. Thanks.

18 If you will if you'll turn to page 13 of
19 your testimony. And I believe on page 13 you
20 indicate that Rider PSR has no provision for the
21 sharing of risks.

22 A. Correct. "The risk." By "the risk," I
23 mean the net cost of the OVEC plants, and there are
24 no provisions that if that net cost is large, that
25 some of that would be borne by the company. There's

1 no provision for sharing that risk.

2 Q. And do you know, sir, if in Rider PSR are
3 there prudency reviews anticipated?

4 A. Yes, I believe there are.

5 Q. And does Rider PSR contain a provision to
6 disallow costs for forced outages?

7 A. I don't remember those details but.
8 Disallow costs for forced outages? Can you show me
9 that?

10 Q. In the rider or?

11 A. Yes.

12 Q. I guess my question is -- I'll ask it
13 differently.

14 Is there some discussion about forced
15 outages in the rider?

16 A. I don't recall that detail.

17 Q. Okay.

18 A. I don't recall. There may have been a
19 provision for some extreme circumstance, yes.

20 Q. And then on page 29, question -- I
21 believe this is Question 26. That question in your
22 testimony asks you --

23 A. Where are we?

24 Q. I'm sorry. Page 29. This will be
25 Question 46.

1 A. 46.

2 Q. So I believe that question asked you to
3 offer your opinion whether PSR will serve as a hedge;
4 is that correct?

5 A. Yes.

6 Q. And on page 29, line 9, I think you state
7 the answer to that question is no.

8 A. No, it would not have this effect to any
9 appreciable extent.

10 Q. So your answer is no, it's not a hedge
11 or?

12 A. No, not to any appreciable extent.

13 Q. But it could be considered a hedge.

14 A. A de minimus, insignificant hedge, it
15 could be considered, yes.

16 Q. A hedge.

17 A. An insignificant; pennies. Paying
18 dollars for a hedge of pennies is basically what it
19 is.

20 Q. Still a hedge.

21 MR. MICHAEL: Objection, asked and
22 answered.

23 A. It is a distinction without a difference.

24 Q. On page 12, lines 14 and 17 of your
25 testimony, let me know when you're there.

1 MR. MICHAEL: What lines, Chris?

2 MR. MILLER: I'm sorry. Page 12, lines
3 14 through 17, Bill.

4 Q. And I think here you indicate that the
5 potential for Rider PSR to act as a hedge is
6 doubtful; is that correct?

7 A. Well, structural -- what I mean here is
8 structurally, due to the time lag, it's not clear
9 that it's a hedge because if you have, say, you know,
10 a quarter like the polar vortex when market prices
11 are really high, you are going to flow that through
12 the rider in the next quarter when maybe prices are
13 much lower. So it's supposed to -- a hedge is
14 supposed to be opposite to the market, but because of
15 the time lag, it may actually be moving with the
16 market. So that's what I mean by "doubtful." I mean
17 structurally, because of that shift in when the costs
18 are passed through, it's not clear that it's even
19 structurally a hedge.

20 Q. We talked a little bit before about the
21 AEP PPA Rider case and the FE Rider RSR case. Do you
22 know, in the AEP PPA case, if the Commission
23 determined that the AEP PPA rider was a hedge?

24 A. I believe they did.

25 Q. And did it do the same thing in the FE

1 SSO case?

2 A. I think it did, yes.

3 Q. Historically, have energy prices in the
4 market been volatile?

5 A. Well, you have to define that. There are
6 many periods when they aren't. Sometimes they have
7 moved up and down. Different periods of volatility
8 like the polar vortex.

9 Q. And have capacity prices in the market
10 been volatile?

11 A. Applicable to Ohio, of course, is western
12 PJM where prices have not really been that volatile
13 for quite a while now. They've sort of wandered
14 between somewhat below and somewhat above 100. So,
15 you know, really looking more recently, I don't
16 consider those capacity prices all that volatile. If
17 you kind of look at two- and three-year averages, you
18 are getting numbers like 120 more or less
19 consistently. And, of course, capacity price is kind
20 of your long-term price, signaling the need for new
21 capacity and, you know, potentially it's time to
22 exit.

23 So market participants are really looking
24 at the averages of those over time, not, you know,
25 the year-to-year movement. So capacity prices in

1 western PJM really have not been all that volatile
2 recently, I think, from the relevant perspective.

3 Q. Were capacity prices higher in May of
4 this year?

5 A. For the -- May of this year was 2017-2018
6 delivery year, but I'm guessing that you are talking
7 about the auction that was held in May.

8 Q. Well, tell me about the auction. Was it
9 higher?

10 MR. MICHAEL: Higher than what?
11 Objection.

12 Q. Higher than it was the time before that.

13 A. Yes. Previous year we had 70-something;
14 this year we had 140. And like I say, average them
15 together, you have got about 100, which is kind of
16 how it's been going for many, many years now.

17 Q. You mentioned something about the polar
18 vortex and that was in '14; am I correct?

19 A. Correct.

20 Q. If I remember right. Did that create
21 volatility in the market?

22 A. There were very high prices during that
23 period, yes.

24 Q. And why was that? Do you know?

25 A. There were very high outage rates. We

1 had had 20 years during which we had not had extreme
2 weather and we had not had very high wintertime
3 prices; and so, many generation owners in PJM had
4 neglected things like winterization, like firming of
5 fuel supply over about a 20-year period before that,
6 and then all of a sudden we had this period of
7 extremely cold weather and we got the wake up call.

8 There was a lot of generation of all
9 capacity types that failed for a wide variety of
10 reason -- reasons. And, in addition, there were a
11 lot of fuel supply issues, gas fuel supply issues,
12 simply because there hadn't been any real need or
13 value in winter capacity for many years before that.
14 There had always been an enormous excess of capacity
15 in the wintertime. So we got that wake up call and,
16 of course, PJM and market participants have taken
17 many actions since then such that nothing like that
18 can really ever happen again.

19 Q. And I believe we talked about in your
20 deposition, you said nothing like that can ever
21 happen again. You stand by that statement?

22 A. Yes. And I clarified that, of course,
23 those weather events can happen again and, in fact,
24 we had such extreme weather again in the subsequent
25 year and since then; so the weather certainly can

1 happen. But a situation where, for 20 years,
2 capacity resources in PJM have neglected
3 winterization and have not firmed their fuel supply,
4 that can't happen again because of all the many
5 actions that have been taken. We have the capacity
6 performance rules and the enormous penalties that any
7 resource that fails, when needed, faces going
8 forward; along with many, many other changes.

9 And indeed, when we've had that sort of
10 extreme weather over the last few winters, the outage
11 rates have been a little higher than normal, but they
12 haven't been anywhere near what they were in the
13 polar vortex. That just can't happen again.

14 Q. Never.

15 A. Never. Those sort of outages --

16 Q. You are awfully certain.

17 A. -- won't happen again. They happened for
18 a whole lot of reasons that are -- have been dealt
19 with since.

20 Q. But there's other reasons, perhaps, that
21 can impact the market we wouldn't have yet dealt
22 with?

23 A. I didn't hear that.

24 Q. There's other reasons, perhaps, that can
25 impact the market we haven't yet dealt with? We

1 experienced the polar vortex. Is there anything else
2 hiding out there that might jump up and bite us?

3 MR. MICHAEL: Objection. Calls for
4 speculation. Vague. Ambiguous. Incomprehensible.
5 Hold on, Jim.

6 THE WITNESS: Sorry.

7 MR. MILLER: Counsel might want to pick
8 one.

9 EXAMINER WALSTRA: Overruled.

10 Q. Let me rephrase the question.

11 You are an expert in this field?

12 A. Yes.

13 Q. And so, we talked about the polar vortex?

14 A. Yes, we did.

15 Q. And I think the question I was asking you
16 is are there -- would you expect there are possibly
17 other things out there that can occur in the
18 marketplace that would have an impact on the
19 volatility of the market, even assuming your
20 assumption that we've fixed the polar vortex problem?

21 A. Yes.

22 Q. Do geopolitical issues contribute to
23 volatility in the market?

24 A. Can you clarify what you mean by
25 "political" issues?

1 Q. What goes on around the world in regards
2 to raw material supply, commodity supply, political
3 infrastructure, do those affect the energy markets?

4 A. Well, the first things you mentioned are
5 market things and then you said political
6 infrastructure.

7 Q. Would those things affect the volatility
8 of the marketplace for energy?

9 A. Can you clarify which things you're
10 asking about?

11 Q. Well, let's assume that we have a large
12 country that supplies us, let's assume the United
13 States, with natural gas, and they have a political
14 coup, and no natural gas is transported to this
15 country; would that have an impact on the volatility
16 of the market?

17 A. There isn't any such country. But, yes,
18 if we were highly dependent on some place for
19 something and then they stopped providing it, that
20 would have an impact.

21 Q. Do you know if inadequate fuel diversity
22 contributes to fuel diversity in the marketplace?

23 A. Well, that's a very vague question.
24 "Inadequate fuel diversity contributes to
25 volatility." What do you mean by "inadequate"?

1 What do you mean by "fuel diversity"? What do you
2 mean by "inadequate fuel diversity"?

3 Q. Not adequate fuel diversity.

4 MR. MICHAEL: Are you moving on,
5 Mr. Miller, because I was going to object to that
6 question if you aren't.

7 MR. MILLER: Well, I'd like him to try to
8 answer this question.

9 Q. Does fuel diversity contribute to market
10 swings?

11 MR. OLKER: Objection. Your Honor, the
12 question is far too vague to answer without a lot of
13 different elements to the hypothetical.

14 MR. MILLER: Well, Mr. Wilson is the
15 expert.

16 A. Well, speaking generically --

17 MR. MICHAEL: Hold on, Mr. Wilson.

18 EXAMINER WALSTRA: He can answer if he
19 knows.

20 MR. MICHAEL: Go ahead.

21 A. I mean, we are speaking generically, and
22 yes, of course, a less diverse fuel mix would
23 potentially be more exposed to price spikes than a
24 more diverse one, just speaking generically.

25 Q. And climate changes, do those contribute

1 to volatility in the marketplace?

2 A. Climate changes, do you mean -- you don't
3 mean weather, you mean long-term climate change?

4 Q. Well, let's start with long-term climate
5 change.

6 A. Contributes to volatility in the
7 electricity market? Could.

8 Q. How about weather?

9 A. Weather contributes both ways.

10 Q. And then finally, regulatory policies, do
11 those contribute to volatility in the marketplace?

12 A. Depends on what policies. They can or
13 they can moderate. They can mitigate volatility.

14 Q. But they impact.

15 A. They can.

16 Q. Do they --

17 A. Which policy do you have in mind?

18 Q. Just generally are you aware of policies
19 that have impacted the market in regards to
20 volatility.

21 A. Generically there can be policies that
22 would have an impact on volatility, yes.

23 Q. Thank you.

24 MR. MILLER: Your Honor, may we approach?

25 EXAMINER WALSTRA: You may.

1 MR. MILLER: And hopefully we are going
2 to hand out the right document this time.

3 EXAMINER WALSTRA: Do you have a ways to
4 go? Do you have significant more on cross?

5 MR. MILLER: Five hours.

6 (Laughter all around.)

7 MR. MICHAEL: That's what I took it as.

8 MR. MILLER: Five minutes.

9 Q. Mr. Wilson, what we are handing out is
10 the EIA U.S. Energy Administration, Henry Hub natural
11 gas spot prices for '98 through 2018. Do you see
12 that? And this is the document that is produced by
13 the United States Energy Information Administration?

14 A. Yes.

15 MR. MICHAEL: Are we marking this as an
16 exhibit, Mr. Miller?

17 MR. MILLER: Yes. I believe we're --

18 EXAMINER WALSTRA: 34.

19 MR. MILLER: 34, thank you.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. And I am not going to ask you to look at
22 all the numbers down below, but just the chart, if
23 you will. Are you familiar with this?

24 A. Yes.

25 Q. And subject to check, is this an accurate

1 representation of the document?

2 A. Yes.

3 Q. It's off the federal website.

4 This chart that you see on the top of the
5 page, it shows some pretty heavy peaks and valleys,
6 correct?

7 A. Yes. Especially before 2010.

8 Q. And it still shows, even after 2010, some
9 rather significant swings, correct?

10 A. Well, we're swinging between price levels
11 that we thought we would never see again, but it does
12 move. You see sort of 2s and 4s in there, yes.

13 Q. And this chart illustrates the natural
14 gas swings in spot price?

15 MR. OLIKER: Objection. The attorney has
16 not established any relevance to the Henry Hub in any
17 price in the region in which the OVEC plants exist to
18 make this line of cross-examination relevant on
19 volatility.

20 MR. MILLER: I don't believe we were
21 talking about volatility in the market. We talked
22 about gas being volatile, we went through a line of
23 questioning, and now I am asking about this document,
24 it's a federal document, it just happens to cover the
25 Henry Hub.

1 MR. OLIKER: And, your Honor, the Henry
2 Hub is located in Louisiana.

3 MR. MILLER: We were talking generically
4 about the market. I think we used the word "generic"
5 a number of times.

6 MR. MICHAEL: Maybe so, but now he is
7 getting beyond generic. We're talking specifically
8 about Henry Hub.

9 EXAMINER WALSTRA: I'll allow the
10 questions.

11 MR. OLIKER: Thank you.

12 THE WITNESS: And the question is?

13 (Record read.)

14 A. This chart shows the movements in the
15 Henry Hub spot price which is -- I believe it's the
16 daily price, right? So this is the price that's
17 balancing the market. Most transactions, of course,
18 occur on a monthly or longer-term basis. But, yes,
19 this is the daily price movements.

20 MR. MILLER: Can you give me a minute?

21 I think that's all I have.

22 EXAMINER WALSTRA: Thank you.

23 Staff?

24 MR. EUBANKS: Staff has no questions.

25 Thank you.

1 EXAMINER WALSTRA: Thank you.

2 Are there questions for the confidential
3 portion?

4 Okay. Let's take a 10-minute recess and
5 come back for redirect.

6 (Recess taken.)

7 EXAMINER WALSTRA: Go back on the record.

8 MR. MICHAEL: Thank you, your Honor. We
9 have brief redirect.

10 EXAMINER WALSTRA: Okay.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Michael:

14 Q. Mr. Wilson, I wanted to draw your
15 attention back to the State of the Market Report for
16 PJM Q1 2018 and Mr. Miller's questions regarding that
17 document, okay?

18 A. Yes.

19 Q. And do you remember the discussion with
20 Mr. Miller regarding fuel diversity?

21 A. Yes.

22 Q. And do you remember the back and forth
23 that you had with Mr. Miller regarding the proper
24 measure of fuel diversity and gigawatts versus
25 capacity?

1 A. Gigawatt-hours, yeah, versus megawatts of
2 capacity, yes.

3 Q. And do you recall your statement to
4 Mr. Miller in response to his questions that you
5 could probably look through that document and find
6 the gigawatt-hours regarding fuel diversity?

7 A. The gigawatt hour fuel mix, yes.

8 Q. And have you had the opportunity to look
9 back in that document to see if, in fact, you could
10 find it?

11 A. Yes, we did.

12 Q. And could you point to the page that you
13 found that, please.

14 A. I believe it's 113.

15 Q. And are you referring to Table 3-9 on
16 page 113?

17 A. Yes.

18 Q. And what does Table 3-9 on page 113
19 reflect regarding gigawatt-hours for PJM generation?

20 A. Yes. This is PJM generation by fuel
21 source, gigawatt-hours, for January through March,
22 comparing 2017 and 2018. So, again, it's just first
23 quarter, but it does show the generation by fuel
24 source.

25 Q. And what is the generation by fuel source

1 for coal?

2 A. For coal, it's indicated to be 31.4
3 percent.

4 Q. And nuclear?

5 A. And nuclear is shown as 34.4 percent.

6 Q. And gas?

7 A. And gas is shown as 27.0 percent.

8 MR. MICHAEL: Thank you. I have no
9 further questions, your Honor.

10 EXAMINER WALSTRA: Thank you.

11 Additional cross? No?

12 Thank you.

13 Duke, would you like to -- or OCC, move
14 your exhibits?

15 MR. MICHAEL: Yes, your Honor, OCC would
16 like to move OCC Exhibits 11 and 11A, please.

17 EXAMINER WALSTRA: Any objections?

18 Hearing none, they will both be admitted.

19 (EXHIBITS ADMITTED INTO EVIDENCE.)

20 MR. MICHAEL: And my colleague pointed
21 out to me it will be subject to disclosing the figure
22 we talked about earlier in the public version.

23 EXAMINER WALSTRA: Right.

24 MR. MICHAEL: I'll refile that.

25 EXAMINER WALSTRA: And Duke, would you

1 like to move your exhibits?

2 MR. MILLER: Yeah. We will move Exhibit
3 33 and 34. And I think on 33, instead of the large
4 version, we thought we would just move the smaller
5 version because it's more convenient.

6 MR. MICHAEL: Your Honor, we -- we have
7 no objection to moving the entirety of Exhibit 34
8 into the record. I think it's appropriate that --
9 oh, was it 33, I apologize. The Q1 State of the
10 Market Report. We would suggest that the entire
11 document comes in. We talked about many different
12 pages in the entire document and we also talked
13 about, in response to cross-examination, an
14 additional page that's probably not in the smaller
15 version, so I think the entire document needs to come
16 in. We don't have any objection to that.

17 EXAMINER WALSTRA: I think at this point
18 now that we've referenced outside --

19 MR. MILLER: For convenience, would the
20 OCC just want to move in that page?

21 MR. MICHAEL: No. We would like the
22 entire document in.

23 MR. MILLER: I'm fine with the entire
24 document. I was trying to save everybody --

25 MR. MICHAEL: I appreciate that. I just

1 think for the record it needs to be the whole thing.

2 EXAMINER WALSTRA: We will admit the
3 entire document.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 EXAMINER WALSTRA: As well as Exhibit 34.

6 MR. MILLER: Thank you.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 EXAMINER CATHCART: OCC, would you like
9 to call your next witness?

10 MR. HEALEY: Thank you, your Honor. The
11 Consumers' Counsel would like to call Barbara
12 Alexander. And if I may approach?

13 EXAMINER CATHCART: You may.

14 (Witness sworn.)

15 EXAMINER CATHCART: You may be seated.

16 THE WITNESS: Thank you.

17 MR. HEALEY: Your Honor, at this time I
18 would like to mark the prefiled testimony of
19 Ms. Barbara Alexander as OCC Exhibit 12. I would
20 note that it was filed in three parts on the docket,
21 so there's the testimony and then there are 27
22 exhibits which were filed in two parts because of the
23 length. So this would be -- Exhibit 12 includes
24 those three filings.

25 EXAMINER CATHCART: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 - - -

3 BARBARA R. ALEXANDER

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Healey:

8 Q. Good morning. Could you please state
9 your name for the record.

10 A. Barbara R. Alexander.

11 Q. And do you have in front of you what has
12 now been marked as OCC Exhibit 12?

13 A. I do.

14 Q. And what is OCC Exhibit No. 12?

15 A. This is my direct testimony and exhibits
16 dated January 25, 2018.

17 Q. And did you draft this testimony
18 yourself?

19 A. I did.

20 Q. Do you have any changes today?

21 A. No, I don't.

22 Q. If I were to ask you the same questions
23 found in this testimony, would your answers be the
24 same?

25 A. Yes.

1 MR. HEALEY: Your Honor, OCC moves for
2 the admission of OCC Exhibit No. 12, subject to
3 cross-examination. Thank you.

4 EXAMINER CATHCART: Thank you.

5 Any cross-examination?

6 Duke.

7 MS. WATTS: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Ms. Watts:

11 Q. Good morning, Ms. Alexander.

12 A. Good morning.

13 Q. Now, first of all, let me say my name is
14 Elizabeth Watts. I'm with Duke Energy. And you and
15 I met over the telephone previously, I believe.

16 A. The deposition.

17 Q. Yes.

18 A. Yes, ma'am.

19 Q. Okay. And, Ms. Alexander, you are an
20 attorney, but you're not licensed in Ohio, correct?

21 A. That is correct.

22 Q. And you do not have any technical
23 expertise in the field of automated metering
24 infrastructure or meter data management systems,
25 correct?

1 A. I'm not a technical designer or engineer
2 or installer of those systems, that is correct.

3 Q. Okay. And you have never been retained
4 as an expert to conduct an audit of a utility's
5 SmartGrid deployment, correct?

6 A. Post deployment, no.

7 Q. Is it fair to say that based on your
8 years of experience, you have a familiarity with
9 standard ratemaking principles?

10 A. Yes.

11 Q. And you understand what a rider is?

12 A. Yes.

13 Q. Okay. And you're aware that during the
14 time Duke Energy deployed its SmartGrid, that there
15 was a midterm review of that deployment and the
16 midterm review was involved -- was undertaken in a
17 case that's captioned 10-2326? Does that sound
18 familiar to you?

19 A. Yes, it does. And yes, I'm familiar with
20 that proceeding.

21 Q. And you referred actually to that
22 proceeding in your footnote 2, on page 2 of your
23 testimony, did you not?

24 A. Well, I've referred to it probably more
25 than once, but yes.

1 Q. At least in that footnote.

2 A. Yes.

3 Q. Okay. And you've reviewed the
4 stipulation and the Commission order in that case,
5 have you not?

6 A. Yes, I have.

7 Q. Have you reviewed anything else in
8 relation to that particular case?

9 A. The MetaVu Report which is referenced in
10 that proceeding.

11 Q. Okay. Anything else?

12 A. No. It was a stipulated resolution.

13 Q. Okay.

14 A. So that was the key.

15 Q. But you did review the stipulation.

16 A. I did.

17 Q. Okay. So if I refer, in the course of my
18 questioning, to the "midterm review," you and I will
19 understand that it's that proceeding that we are
20 referring to, correct?

21 A. Yes.

22 Q. And if I reference the "MetaVu audit,"
23 you will understand that that's an audit that was
24 performed by MetaVu, Inc. that was filed in the
25 docket in that proceeding, correct?

1 A. Yes.

2 Q. Okay. Now, when approximately were you
3 retained by OCC in connection with these proceedings?

4 A. I don't remember the date. It was in the
5 context, I believe initially, of the CEUD proceeding
6 which I have also cited in my testimony. I believe
7 you asked and received the documents associated with
8 my consultancy with the OCC, so that's a matter of
9 whatever it was. You know that somewhere in your
10 files.

11 Q. All right. And was that approximately
12 2016?

13 A. That sounds correct to me, yes.

14 Q. Okay. And are you aware of when Duke
15 Energy completed deployment of its SmartGrid?

16 A. According to the Staff, I would rely on
17 their certification of that deployment, and that
18 happened over a year ago.

19 Q. Could it perhaps have been longer than a
20 year?

21 A. There is a date that that is known.
22 Whether I can recall it or not, I can't tell you
23 right now.

24 Q. Okay. So your employment or your
25 retention by OCC has come essentially at the very end

1 of the company's deployment process, correct?

2 A. That is correct.

3 Q. So your review of the company's actions
4 are essentially retroactive -- retrospective?

5 A. That is entirely correct.

6 Q. And in preparing your testimony, did you
7 go back and review any of Duke Energy Ohio's rider
8 applications that occurred annually as it was
9 continuing through deployment?

10 A. There are some of those materials that
11 are referenced, I believe in my testimony. The
12 actual submission of costs and the Staff determined
13 that the costs were, in fact, incurred and allowed to
14 be recovered in the rider were not something that I
15 spent a lot of time on.

16 Q. Did you understand each of those riders
17 involved a prudence review with respect to the costs
18 that were incurred annually?

19 A. No.

20 Q. Did you review any of the testimony that
21 was filed along with those applications in those
22 rider proceedings?

23 A. I can't say that I thoroughly reviewed
24 all of them, but I believe that I reviewed some here
25 and there, yes.

1 Q. Did you review any --

2 A. I never found any reference to prudence
3 in those documents.

4 Q. Okay. Did you recall any reference in
5 any of those prior cases to matters involving
6 time-of-use rates?

7 A. I am aware of the mid-deployment review
8 stipulation and order with regard to that. I
9 reviewed -- I looked at Duke's current tariffs for
10 time-of-use rates for residential customers. Yes.

11 Q. And is it your understanding that in
12 addition to a review of the company's deployment
13 during what we are calling the midterm review, there
14 was also a request for cost recovery for that -- for
15 the year previous?

16 A. In the rider?

17 Q. Yes.

18 A. Yes, I'm aware of that.

19 Q. Okay. So it's been your testimony that
20 you have reviewed the stipulation in that midterm
21 review case, correct?

22 A. Yes.

23 Q. Do you have a copy of that with you?

24 A. No.

25 MS. WATTS: Your Honor, could we have

1 this marked as Duke Energy Ohio, I think we are up to
2 Exhibit 35 or 36?

3 EXAMINER WALSTRA: 35.

4 MS. WATTS: 35.

5 EXAMINER CATHCART: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MS. WATTS: And may we approach?

8 EXAMINER CATHCART: You may.

9 THE WITNESS: So the document you've
10 handed me is just the stipulation, not the order that
11 describes it or discusses it.

12 Q. Correct.

13 A. Okay. Thank you.

14 MS. WATTS: One moment, please. Counsel
15 doesn't have a copy and I thought we had a copy for
16 him, so I apologize.

17 EXAMINER WALSTRA: You can use one from
18 the Bench.

19 MS. WATTS: I apologize.

20 Q. And, Ms. Alexander, you have reviewed
21 this document previously, correct?

22 A. Yes. I believe it was attached to the
23 Commission's Order.

24 Q. Okay.

25 A. Yes.

1 Q. And on page -- would you turn to page 5
2 of that stipulation, please.

3 A. Yes.

4 Q. Looking at page 5, beginning -- pardon
5 me, with Section II that's entitled "Netting of
6 Benefits Against Costs." Do you see that?

7 A. Yes.

8 Q. And are you familiar with the provisions
9 that are included in that section of the stipulation?

10 A. I've read them, yes.

11 Q. And is it correct that that provision
12 sets forth a methodology for reducing the annual
13 revenue requirement by an amount equal to the value
14 of operational benefits levelized over four years?

15 A. That was an agreed-upon level of
16 reduction in revenue requirement for that purpose in
17 this document, yes.

18 Q. And did you review any subsequent
19 proceedings to ensure that value was, in fact,
20 returned to customers each year?

21 A. During the period of the rider?

22 Q. Correct.

23 A. I did not.

24 Q. Do you have any reason to believe that it
25 was not returned to customers?

1 A. I have no opinion on that matter. I
2 presume it's a matter of public record.

3 Q. Okay.

4 A. That was not the subject of my testimony.

5 Q. Is it not the case, Ms. Alexander, you
6 recommend the -- that the Commission reduce the
7 revenue requirement by \$12.933 million, which you
8 believe is the agreed-upon annual value of SmartGrid
9 benefits to customers under the mid-deployment review
10 standard?

11 A. No, ma'am. You're misreading my
12 recommendation. My point is that the Staff did not
13 nor has the company been able to document the actual
14 O&M benefits that it was required to provide as a
15 condition of the rate case which we are now involved
16 in, this proceeding, post deployment.

17 Q. Okay.

18 A. And I said if that information is not
19 available, at the very least the Commission should
20 ensure that that particular amount that you just read
21 be re -- reflected in the revenue requirement for
22 this case, but my main concern is the lack of any
23 documentation of actual O&M benefits.

24 Q. Okay. So just so we're clear, if you
25 wouldn't mind turning to page 3 of your testimony.

1 A. Yes, ma'am. Yeah.

2 Q. So lines 4 through 6 where you're saying
3 you recommend that the revenue requirement be reduced
4 by 12.933 million. Is it your testimony that that
5 recommendation is conditional upon -- that your
6 recommendation is that that netting only occur if
7 savings have not otherwise been recognized in the
8 company's rate case revenue requirement?

9 A. Right. That is the -- that is the
10 minimum amount that we have on the public record as a
11 result of this stipulation that you're pointing me to
12 in the Mid-Deployment Review Settlement. My main
13 concern is the lack of compliance with the other
14 provisions of this stipulation that required an
15 actual level of benefits to be identified in this
16 rate case.

17 Q. Okay. Do you know when was the last time
18 the company provided a netting of that 12.933 million
19 in its rider applications?

20 MR. HEALEY: Objection, your Honor.
21 Assumes facts not in evidence. The question assumes
22 that was, in fact, done, and there is nothing in the
23 record of this case demonstrating that has or has not
24 been done through any rider.

25 EXAMINER CATHCART: Overruled. The

1 witness can answer if she knows.

2 A. I'm not aware of the -- all the line
3 items in the prior rider proceedings. I would assume
4 the company did as required with regard to that 12.9
5 in the prior rider proceedings. There is no
6 discussion by the Staff of any amount in its proposed
7 revenue requirement that's at issue in this case that
8 would allow me to determine how the rate case revenue
9 requirement was calculated in light of this
10 requirement.

11 Q. Okay. So let's talk about the rate case
12 revenue requirement for a moment.

13 A. Yes.

14 Q. Did you review any of the financial
15 statements related to the rate case revenue
16 requirement in -- in this proceeding?

17 A. Yes. The Staff Report is what I think
18 you are referring to.

19 Q. Yes.

20 A. Yes.

21 Q. And in connection with the Staff Report,
22 did you compare the revenue requirements in this case
23 with a previous rate case in order to determine
24 whether the revenue requirement had, in fact, gone up
25 or down?

1 A. I saw the number, but that was devoid of
2 any explanation with respect to the SmartGrid actual
3 or even estimated level of benefits associated with
4 O&M as promised by the company.

5 Q. Okay. Just so that we have a clear
6 record, let's -- let's take a look at that.

7 MS. WATTS: Your Honor, I would like to
8 have marked as Duke Energy Ohio 37 --

9 EXAMINER WALSTRA: 6.

10 MS. WATTS: 36, the prefiled testimony of
11 Ross Willis in Case No. 12-1683-EL-AIR, and may we
12 approach?

13 EXAMINER CATHCART: So marked, and you
14 may.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 A. But that's not this proceeding; is that
17 correct?

18 Q. That's correct.

19 A. Oh, okay. Very good.

20 Q. And, Ms. Alexander, there is a Revised
21 Schedule C-2.

22 A. I don't have -- oh, I do have it, excuse
23 me.

24 Q. Attached to that document.

25 A. Is there a page number you can point me

1 to?

2 Q. Momentarily, yes.

3 A. Okay.

4 Q. And I apologize because apparently there
5 are not page numbers.

6 A. There are no page numbers.

7 Q. It's towards the back and the schedules
8 are labeled at the top right corner and it's Revised
9 Schedule C-2.

10 A. I've got that.

11 Q. Okay. And in particular we'd be looking
12 at line 20 which is the "Total Operation and
13 Maintenance Expense" that was requested or which
14 Staff approved in that rate case. Do you see that?

15 MR. HEALEY: I am going to object, your
16 Honor. There is no foundation yet for this document.
17 The witness has not testified she has ever seen it or
18 knows anything about it.

19 MS. WATTS: Your Honor, I am just asking
20 a question. I am not offering the document for
21 admission just yet.

22 MR. HEALEY: Can I have the question
23 reread, please.

24 A. The document is --

25 MR. HEALEY: Barbara, hold on.

1 A. I'm sorry, excuse me.

2 (Record read.)

3 MR. HEALEY: Your Honor, I would further
4 object to the form of that question. Staff doesn't
5 approve anything in a rate case nor is there any
6 evidence that any of these numbers were approved by
7 the Commission.

8 MS. WATTS: I did not represent that they
9 were approved by the Commission. I only asked if
10 Staff -- and I will correct my question -- Staff's
11 recommendation in the case.

12 MR. HEALEY: I would again object that
13 there is no evidence of what Staff did or did not
14 recommend in this case. The witness has not seen
15 this document. There's no foundation to ask her to
16 answer a question about what Staff did or did not
17 recommend in a case she did not participate in.
18 There's no way the witness has that knowledge and she
19 should not be required to try to answer that type of
20 question.

21 EXAMINER CATHCART: Overruled. I'll
22 allow the question.

23 Q. (By Ms. Watts) Ms. Alexander, at line 20,
24 there is a number that represents total operation and
25 maintenance expense. Do you see that?

1 A. I do see the number.

2 Q. And the adjusted revenue and expense
3 column indicates for line 20 that that number is
4 163,367,730. Do you see that?

5 A. I see the number.

6 Q. Thank you.

7 Would you turn to the Staff Report in
8 this proceeding, please.

9 MS. WATTS: And we would ask that be
10 marked as Duke Energy Ohio Exhibit 36.

11 MR. HEALEY: It's already in.

12 MS. WATTS: Okay. May we approach?

13 EXAMINER CATHCART: You may.

14 EXAMINER WALSTRA: Staff Exhibit 1, is
15 that your reference?

16 MS. WATTS: Yes.

17 Q. And, Ms. Alexander, this document is
18 actually numbered, so if you would go to page 104,
19 please.

20 A. I'm there.

21 Q. And at page 104, again on line 20, and
22 first of all, we agree that this is labeled Schedule
23 C-2 and it's entitled "Adjusted Test Year Operating
24 Income for the Twelve Months ended March 31, 2017"?
25 Is that what you see on the top of the page?

1 A. Yes.

2 Q. Okay. And referring to line 20, there's
3 a figure for total operation and maintenance expense,
4 adjusted revenue and expenses, and do you see that
5 number?

6 A. I do.

7 Q. And does it say \$147,513,041?

8 A. It says that, yes.

9 Q. And simple math would suggest to both of
10 us that that number is lower than the number that was
11 in the previous schedule.

12 MR. HEALEY: Your Honor, I am going to
13 object to this line of questioning. Again, we are
14 just asking the witness to read numbers off of two
15 different pieces of paper and do subtraction. The
16 witness is not here to do math. These documents
17 speak for themselves. We still haven't established
18 what the previous document even was or if any of
19 those numbers were approved by the Commission in that
20 case. This is entirely irrelevant. Counsel is
21 trying to put words into the witness's mouth that she
22 is not making herself and we are using documents for
23 an improper purpose here.

24 I would also point out the Staff Report
25 in this case has not yet been approved. There is a

1 settlement that modifies portions of the Staff
2 Report. We have not established this Schedule C-2 in
3 the Staff Report is going to be approved by the
4 Commission either. This is entirely speculative and
5 inappropriate questioning for this witness and well
6 outside the scope of her testimony.

7 MS. WATTS: Your Honor, the gist of this
8 witness's testimony is the company has not accounted
9 for its SmartGrid savings as a result of its
10 SmartGrid deployment. A summary review of the Staff
11 Report in the prior case and the Staff Report in this
12 case would show that the revenue requirement has gone
13 down and that's all I want to demonstrate.

14 MR. HEALEY: Your Honor, the company had
15 an opportunity to make that case both in its
16 responses to discovery from OCC, which it did not do,
17 and with its own witnesses, which it did not do. The
18 time to do that is not on cross-examination of OCC's
19 witness using documents that she has not seen and
20 cannot verify.

21 MS. WATTS: The fact she has not seen
22 them is irrelevant.

23 EXAMINER CATHCART: I am going to
24 overrule the objection and allow the line of
25 questioning.

1 Q. (By Ms. Watts) So, Ms. Alexander, you did
2 not review any of these numbers prior to crafting
3 your testimony, correct?

4 A. I definitely reviewed the Staff Report.
5 We conducted -- we were unable to conduct discovery
6 with the Staff, we attempted discovery of the
7 company, to determine the actual O&M benefits that
8 the company promised with regard to SmartGrid. There
9 is no discussion of what this number means or that
10 it's related at all to the SmartGrid deployment in
11 Ohio. So the numbers are what they are. But they
12 are meaningless for the purpose of my testimony,
13 ma'am.

14 Q. So if the company is demonstrating O&M
15 savings by virtue of the financial statements that
16 were filed in connection with its rate case, you
17 would not agree that that is sufficient to
18 demonstrate a reduction in O&M based on SmartGrid
19 deployment?

20 A. I would not, ma'am. You would need some
21 facts to discuss all the different inputs to O&M that
22 may or may not have had an impact on these numbers.

23 Q. Okay. And in support of your argument to
24 that effect, you cite to Paragraph e on page 16 of
25 the midterm deployment stipulation, correct?

1 A. I'm turning there. Okay.

2 Q. Is that correct?

3 A. Well, where are you pointing me
4 specifically, please?

5 Q. Paragraph e on page 7 of the stipulation.

6 A. Oh, 7. I misheard. D and e, yes.

7 Q. Okay. And with reference to Paragraph d,
8 beginning with the sentence "The test year used in
9 the base rate application," do you see that sentence?

10 A. Yes.

11 Q. It indicates that the test year will
12 begin no earlier than full deployment, correct?

13 A. No earlier than the date of full
14 deployment.

15 Q. And the -- and following on, "such that
16 the revenue requirement requested in that case will
17 reflect the level of the benefits attributable to
18 SmartGrid...." Do you see that?

19 A. And then finish the sentence "...which
20 have actually been achieved by the Company and all
21 prudently incurred current costs associated with the
22 program."

23 Q. And thank you for reading the whole
24 sentence.

25 A. Yes.

1 Q. So is it your understanding that there
2 was something more to be done beyond just
3 demonstrating savings in the revenue requirement in
4 the rate case application?

5 MR. HEALEY: Again, your Honor, I would
6 object. This is assuming facts not in evidence.
7 There is no evidence there has been a reduction in
8 the revenue requirement for O&M, and the question
9 assumes that there was, therefore it's impossible for
10 the witness to answer this question accurately.

11 EXAMINER CATHCART: Overruled. The
12 witness can answer if she knows.

13 A. The OCC attempted repeatedly to obtain
14 the documentation from the company about the actual
15 benefits that were going to be identified and
16 reflected in this revenue requirement, and the
17 company said we don't track those anymore.

18 Q. Correct. And do you have a specific
19 discovery response that you recall?

20 A. It's attached to my testimony as an
21 exhibit.

22 Q. Okay. And is it your understanding then
23 that something more was required than the number that
24 reflects savings in the revenue requirement?

25 A. Absolutely. Because the number in the

1 revenue requirement is not identified as relating to
2 this requirement that you document as a result of the
3 stipulation.

4 Q. Understood. And you were not -- you had
5 no involvement in the -- in the midterm review case,
6 correct?

7 A. That is correct.

8 Q. Looking at page 8 of your testimony.

9 A. Yes.

10 Q. At line 15 you have a sentence that says
11 "Nor is there any evidence that Duke submitted any
12 proposal to the PUCO to install the Itron metering
13 system or sought PUCO approval to operate two
14 metering systems." Do you see that?

15 A. Yes.

16 Q. What regulation or statute do you believe
17 requires the company to specifically request approval
18 from the PUCO for deploying that Itron metering?

19 A. It would be a standard regulatory policy
20 that in the event of approval of a specific
21 investment as Duke proposed it would deploy, to get
22 approval and the creation of the rider to pay for
23 that approval, that any significant change in the
24 costs and the design and the implementation of that
25 system that became known to Duke as not complying

1 with its promised benefits, should obviously have
2 been required of the company to notify the Commission
3 formally, to explain the situation, and seek
4 regulatory approval of whatever it sought to do to
5 correct its deficiencies.

6 Q. Outside of your statement that it would
7 be normal regulatory policy, are you aware of any
8 statutes or Commission -- Ohio Commission regulations
9 that would require such a filing?

10 A. Well, that would require research that I
11 have not done as to the precedent for the basis for
12 my statement, but I'm very comfortable with my
13 suggestion of the appropriate and reasonable
14 regulatory policies that Duke should have known to
15 follow in this case.

16 Q. So it's your -- so you have just
17 testified that you did not do any legal research into
18 whether there is such a requirement in Ohio?

19 A. I sincerely doubt there is a statute that
20 says if some company finds that it got approval for
21 investment and it installed a totally different
22 investment as a result, that it requires a specific
23 public filing by the utility. That's just common
24 regulatory policy to expect such an action to be
25 undertaken. And I've had 30 years experience in the

1 regulatory field on which I base my opinion.

2 Q. And is it your understanding that with
3 the initiation of the deployment of SmartGrid meters
4 in Ohio, Duke Energy Ohio established a collaborative
5 group to discuss the deployment with interested
6 stakeholders?

7 A. I'm aware there was a working group or
8 collaborative group. I don't know the exact name,
9 but I have been made aware of that situation, yes.

10 Q. Okay. And were you made aware that
11 collaborative group met monthly at the Commission?
12 Yes, monthly at the Commission from the beginning of
13 the deployment?

14 MR. HEALEY: I object, your Honor.

15 A. I have no knowledge.

16 MR. HEALEY: I'll withdraw my objection.

17 A. I have no knowledge of the frequency of
18 its meetings.

19 Q. Sure. And you never attended any such
20 meeting, right?

21 A. No, I did not.

22 Q. So if the change in meter brand or meter
23 fashion was discussed in such a collaborative, you
24 would have no knowledge of that, correct?

25 A. That's correct.

1 Q. Also on page 8, at line 17 of your
2 testimony.

3 A. Yes.

4 Q. You state that "Duke did not originally
5 propose two metering systems, and Duke's 2009 Ohio
6 matter Grid Design Basis Document described only the
7 Echelon metering system," correct?

8 A. Yes. In fact, it specifically named the
9 entities providing the technology in that application
10 as Ambient Communications and Echelon Metering
11 Systems.

12 Q. Absolutely. And is it your understanding
13 that at the time that Design Basis Document was
14 formed, there was an intention at that time to
15 install Itron meters?

16 A. I do not know the exact date. We have
17 Mr. Schneider's testimony in 2014 that makes it clear
18 that it was subsequent to the initial set of
19 installations of the Echelon metering system that
20 Duke discovered that it could or should install this
21 separate AMI system in Ohio.

22 Q. But you're not saying, just to be clear,
23 you're not saying the company intended initially to
24 install Itron meters and failed to disclose that,
25 correct?

1 A. Oh, the failure to disclose is that it
2 promised benefits from the Echelon metering system
3 that it has not and never has delivered. So the
4 basis for the application was a misdirection, error,
5 misrepresentation, deceptive, I don't know, you can
6 put whatever word you want on it, but that's the
7 point I made in my testimony.

8 Q. So you're saying the company was
9 misrepresenting and deceptive; is that your
10 testimony?

11 A. My testimony is as written. I said that
12 there are many different adjectives that could be
13 used to describe what was proposed to the Federal
14 Government and the Ohio Public Utilities Commission,
15 and at the point at which it was clear that it could
16 not and did not and never has delivered those
17 functionalities, that the failure to make that plain
18 and bring it forward is a very serious matter.

19 Q. Okay. Let's talk about the application
20 to the Federal Government that you just mentioned.

21 A. Yes.

22 Q. You discuss that on page 9 of your
23 testimony, correct?

24 A. Yes.

25 Q. And on page 9, you mention that the

1 company applied for a SmartGrid Investment Grant to
2 the United States Department of Energy, correct?

3 A. Yes.

4 Q. And indeed, you point out that the
5 company described the Echelon metering system, but
6 you state that the company did not mention the
7 installation of a second Itron metering system. Do
8 you see that?

9 A. It did not; that is correct, yes.

10 Q. And do you believe, at the time the
11 application was filed, that it should have indicated
12 it intended to deploy Itron meters?

13 A. No. I'm just making clear that the
14 application was focused on the Echelon metering
15 system and there was no indication at that time that
16 any second metering system would be installed in
17 later years. So that -- my only point was a single
18 metering system was sought for federal funding and to
19 the Ohio Commission as well, and it's only later that
20 we find that a second system was subsequently
21 installed.

22 Q. Okay. So we're clear that the company
23 initially intended to install Echelon meters,
24 correct?

25 A. I believe that is the case, yes.

1 Q. And you are not saying the company
2 intentionally misrepresented anything initially with
3 respect to that installation.

4 A. Oh, I think it misrepresented what the
5 system would do. I don't think it misrepresented the
6 intent to install the Echelon system on a system-wide
7 basis.

8 Q. Okay. And with respect to the DOE
9 application, did you review the application itself?

10 A. Yes. It's a very large document.

11 Q. I think we agree that it's a very large
12 document.

13 And did you interview anyone in
14 connection -- anyone at the Department of Energy in
15 connection with that application?

16 A. No. There was no reason to do that. It
17 was very clear what the application asked for and
18 promised.

19 Q. Okay. And did you ask for any additional
20 information from DOE other than the application?

21 A. We asked for a Freedom of Information Act
22 request for all the documents surrounding that
23 application, and the amount of material we got in
24 return is what you see here as an exhibit.

25 Q. Okay. And you don't know, do you, about

1 any communication between Duke Energy and the
2 Department of Energy after that grant was awarded.

3 A. Oh, there are documents in this file that
4 reflect that, yes.

5 Q. Okay. So there -- so it's your
6 understanding there were ongoing communications
7 between Duke Energy and the DOE as time went on and
8 the grant was administered?

9 A. That is true of all of these grants. I'm
10 familiar with how they operate because I'm familiar
11 with how it has been done in Maryland for two public
12 utilities, and in Maine for another public utility.
13 The grant is not a single check cut to the utility
14 once awarded. It was doled out to the utility in --
15 based on its actual installation costs that it
16 submitted to the Department, and then funds passed
17 over to match certain aspects of those costs.

18 Q. So the DOE monitors activities as it
19 doles out the dollars; is that correct?

20 A. I have -- the nature of what it was doing
21 to oversee Duke, I do not know. All I know is that
22 the money was not handed out in one lump sum.

23 Q. All right. Thank you.

24 A. Yes, right.

25 Q. Are you testifying that Duke Energy also

1 intentionally misrepresented its plans to the USDOE?

2 A. The fact that it was unable to install a
3 system that it promised it would deliver what it
4 promised to do is something that I think Duke, as it
5 became known that it wasn't doing that, should have
6 notified all parties officially, yes. And never did.

7 Q. Do you know if Duke Energy has improved
8 the accuracy of its bills through the use of smart
9 meters?

10 A. I don't know exactly of that because Duke
11 has failed to corroborate any of the operational
12 benefits that it claimed it would deliver with this
13 system.

14 Q. And in your review of prior rider
15 proceedings, did you see any information related to
16 the accuracy of bills?

17 A. I don't believe I recall that.

18 Q. Okay. Do you know if the company now is
19 able to engage in remote fulfillment to start and
20 stop service remotely?

21 A. I am presuming that it can do that, yes.
22 That is a function of the meter that I believe
23 exists.

24 Q. And do you know if Duke Energy notifies
25 customers of outages through the use of text

1 messages?

2 A. No.

3 Q. Do you know what flexible billing options
4 are available to customers in Duke Energy Ohio's
5 service territory?

6 A. Other than monthly bills?

7 Q. Yes.

8 A. No.

9 Q. Do you have any knowledge of any pilot
10 programs undertaken by Duke Energy with respect to
11 time-of-use rates?

12 A. I'm aware of those pilots that occurred,
13 yes. And I'm familiar with the fact that they have
14 concluded and that they are no longer being
15 implemented.

16 Q. Okay. Do you know what functionality the
17 company provides to competitive retail electric
18 suppliers with respect to time-of-use rates?

19 A. They can't provide billing quality
20 interval usage data to any CRES provider to offer any
21 time-of-use rates except for very large customers who
22 are on a different metering system.

23 Q. Do you understand -- have you ever heard
24 the terminology four-by-four rate?

25 A. No.

1 Q. So you don't know what a four-by-four
2 rate is if I use that terminology?

3 A. Not that -- not that way of identifying
4 it. It may be that the design of the rate is
5 something I would be familiar with if it was
6 explained to me.

7 Q. And it's your understanding then that the
8 company offers no time-of-use rate functionality to
9 competitive suppliers; is that your testimony?

10 A. I explored all of that quite clearly in
11 the CEUD case. The Echelon metering system cannot
12 provide billing-quality interval usage data that
13 would allow any CRES provider to offer that program
14 to its customers.

15 Now, are we talking about free Saturdays
16 or something like that? I don't know what the CRES
17 providers here offer their customers, but the system
18 cannot provide the data that would allow any CRES
19 provider to offer to the 60- to 70,000 -- hundred
20 thousand customers in Ohio who have these Echelon
21 meters installed. They can't do it.

22 Q. Ms. Alexander, are you claiming any
23 expertise with respect to cybersecurity matters?

24 A. No, I'm not.

25 MS. WATTS: That's all I have, your

1 Honor.

2 EXAMINER CATHCART: Thank you.

3 Staff?

4 MR. EUBANKS: Staff has no questions,
5 your Honor.

6 EXAMINER CATHCART: Thank you.

7 Any redirect?

8 MR. HEALEY: Could we just have 2
9 minutes, your Honor?

10 EXAMINER CATHCART: Sure.

11 EXAMINER WALSTRA: We'll go off the
12 record.

13 (Discussion off the record.)

14 EXAMINER CATHCART: Let's go back on the
15 record.

16 MR. HEALEY: Thank you, your Honor. OCC
17 has nothing further.

18 EXAMINER CATHCART: Thank you.

19 MR. HEALEY: And I think at this time, I
20 renew my motion for admission of OCC Exhibit 12,
21 including all exhibits. Thank you.

22 EXAMINER CATHCART: Any objection?

23 MS. WATTS: No objection.

24 EXAMINER CATHCART: That will be
25 admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER CATHCART: Duke.

3 MS. WATTS: We would move for admission
4 of Duke Exhibit, I think it's 35, 36, and 37. Is it
5 two?

6 EXAMINER WALSTRA: The Staff Report was
7 already in. Oh, that's right. 35 and 36.

8 EXAMINER CATHCART: Any objection?

9 MR. HEALEY: Yes, your Honor. We would
10 object again to the admission of Duke Exhibit 36
11 which is testimony that was filed by Staff in a 2012
12 case. The use of this exhibit was inappropriate
13 because the witness did not have any foundation, had
14 not reviewed it. We don't know why this testimony
15 was submitted. We don't know if it was adopted. We
16 don't know if this case approved any of the numbers
17 in that document and, therefore, they are wholly
18 irrelevant and unreliable for purposes of evidence in
19 this case.

20 MS. WATTS: Your Honor, it's a little
21 disingenuous for Counsel to suggest that nobody knows
22 what the purpose of Staff Report in a rate case is.
23 It stands for what it stands for in that previous
24 case. The witness was only referred to one
25 particular number in a schedule in that case, and my

1 purpose in questioning her was to see if she had
2 reviewed that previously. If we can't have it
3 admitted as an exhibit, I would ask the Bench to take
4 administrative notice of the two documents.

5 EXAMINER WALSTRA: Are you objecting to
6 both or just to 36?

7 MR. HEALEY: Only to 36.

8 EXAMINER CATHCART: We are going to admit
9 35, and we will just take administrative notice of
10 Exhibit 36.

11 MS. WATTS: Thank you, your Honor.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 EXAMINER CATHCART: Thank you.

14 THE WITNESS: Okay. Do I leave all these
15 documents here?

16 MR. HEALEY: You can take them.

17 EXAMINER CATHCART: Would Staff like to
18 call its next witness.

19 MR. LINDGREN: Thank you, your Honor.
20 The Staff calls James Schweitzer to the stand.

21 (Witness sworn.)

22 EXAMINER CATHCART: You may be seated.

23 MR. LINDGREN: May I approach the
24 witness?

25 EXAMINER CATHCART: You may.

1 MR. LINDGREN: Please let the record
2 reflect that I am handing the witness what I have
3 marked for identification as Staff Exhibit 6.

4 EXAMINER CATHCART: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 - - -

7 JAMES W. SCHWEITZER
8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Lindgren:

12 Q. Hello, Mr. Schweitzer.

13 A. Good morning.

14 Q. Do you have before you the document that
15 I have marked as Staff Exhibit 6?

16 A. Yes.

17 Q. Is that your prefiled testimony?

18 A. It is.

19 Q. And was this testimony prepared by you or
20 at your direction?

21 A. Yes.

22 Q. And do you have any changes or
23 corrections to this testimony?

24 A. No.

25 Q. If I were to ask you all the questions

1 contained in this exhibit, would your answers be the
2 same?

3 A. Yes.

4 MR. LINDGREN: Thank you. I have no
5 further questions and, subject to cross-examination,
6 I move for the admission of Staff Exhibit 6.

7 EXAMINER CATHCART: Thank you.

8 MR. OLIKER: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Oliker:

12 Q. Good morning, Mr. Schweitzer.

13 A. Good morning, Mr. Oliker.

14 Q. Hopefully this cross-examination will be
15 very short, but we'll find out in a moment. Am I
16 correct you were responding to objections to the
17 Staff Report submitted by the Ohio Consumers'
18 Counsel?

19 A. Certain objections, yes.

20 Q. And do those objections relate to the
21 portions of the Staff Report that you may have been
22 involved in preparing?

23 A. I am just writing testimony objecting --
24 well, responding to some of the objections of the
25 OCC. That's it.

1 Q. Are there any other sections of the Staff
2 Report that you may have contributed to that are not
3 contemplated by your testimony?

4 A. No.

5 MR. OLIKER: Thank you, Mr. Schweitzer.

6 And thank you, your Honor.

7 EXAMINER CATHCART: Thank you.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Healey:

11 Q. Mr. Schweitzer, on page 2 of your
12 testimony.

13 A. Yes.

14 Q. Starting at line 5, you describe the
15 purpose of your testimony as addressing objections
16 regarding SmartGrid issues by the Ohio Consumers'
17 Counsel to the PUCO Staff Report. Do you see that?

18 A. Yes.

19 Q. And the Staff Report was filed only in
20 the rate case, correct?

21 A. That's correct.

22 Q. And so, would it be accurate to say that
23 your testimony applies only to the rate case and not
24 on the other cases before the Commission currently?

25 A. That is correct.

1 Q. And so, you are not testifying as to
2 whether the stipulation in this case meets the
3 Commission's three-prong test; is that right?

4 A. Absolutely not.

5 Q. Are you familiar with the used and useful
6 standard in Ohio?

7 A. Yes.

8 Q. And one of Staff's responsibilities in
9 preparing its -- I apologize.

10 One of Staff's responsibilities in
11 preparing the Staff Report is to determine whether
12 Duke's assets are used and useful, correct?

13 A. Yes.

14 Q. And when Staff is evaluating whether
15 property is used and useful, does it do a physical
16 inspection of that property?

17 A. Yes.

18 Q. Can you describe for me how those
19 physical inspections work?

20 A. We have -- we have folks that are Staff
21 members that actually do physical inspections. They
22 often will hookup with certain employees, service
23 employees employed by Duke, and go around the service
24 territory, identifying property plant equipment
25 exists and that it is operating appropriately.

1 Q. So you would agree that these physical
2 inspections are an important part of determining
3 whether property is, in fact, used and useful,
4 correct?

5 MR. LINDGREN: Objection, that's outside
6 the scope of his testimony. Direct testimony.

7 MR. HEALEY: Your Honor, his testimony
8 discusses whether or not property is used and useful.
9 Those words are right in his testimony. I am just
10 trying to understand what Staff's process is for
11 making that determination. OCC objected that certain
12 property may or may not have been used and useful,
13 and he is responding that it, in fact, has already
14 been determined to be so.

15 EXAMINER CATHCART: Overruled. The
16 witness can answer to his understanding.

17 THE WITNESS: Please repeat the question.

18 MR. HEALEY: Can I have that reread,
19 please.

20 (Record read.)

21 A. It is, yes, it is a factor.

22 Q. I don't mean to quibble, but my question
23 asked whether you would agree that it is an important
24 part of the process in determining whether property
25 is used and useful, not simply whether it was a

1 factor.

2 A. I'm going to say that it's a factor.

3 Q. So are you saying it is unimportant?

4 A. I am not saying that. It is -- it can be
5 important. And -- it can be important.

6 Q. Other than these physical inspections,
7 what else does Staff do to determine that property is
8 or is not used and useful?

9 MR. LINDGREN: Objection. Again, this is
10 outside the scope of his testimony. He was not the
11 person on Staff responsible for that.

12 MR. HEALEY: Your Honor, this is the
13 Staff witness, who is testifying on page 4, that
14 these expenses have already been approved as prudent
15 and used and useful. I think I am entitled to
16 explore how Staff may or may not have made that
17 determination, and this is the witness that Staff has
18 put on on that issue.

19 MR. LINDGREN: Your Honor, those audits
20 were done in prior cases, not in this proceeding.

21 EXAMINER CATHCART: Overruled. The
22 witness can answer.

23 A. I believe it would be more appropriate to
24 direct more specific line of questioning to another
25 Staff witness.

1 Q. And so, is your response that you don't
2 know the answer at all or that you just prefer not to
3 answer?

4 MR. LINDGREN: Objection.

5 MR. HEALEY: Your Honor, I asked the
6 question. He said it would be more appropriate of
7 another witness. I think I am entitled to understand
8 if he knows the answer or not rather than simply
9 deferring. If he doesn't know the answer, then he
10 can just say so and that's fine and I will move on.

11 EXAMINER CATHCART: Overruled.

12 A. Okay. I don't know the answer.

13 Q. You are aware that OCC objected to the
14 Staff Report on the grounds that it failed to address
15 whether Duke's current SmartGrid infrastructure
16 delivers all of the capabilities and functionalities
17 that Duke promised in past cases, correct?

18 A. Yes.

19 Q. You would agree that Duke's SmartGrid
20 should, in fact, deliver any capabilities and
21 functionalities that were promised, correct?

22 A. I'll agree that was the goal. The
23 functionalities of the SmartGrid are -- have been
24 in -- they are a reality according to many of the
25 factors that we do happen to look at.

1 Q. Let's turn to page 2, you may already be
2 there, of your testimony. And starting around
3 line 15 or so, you begin to discuss a stipulation
4 that was filed in Case No. 10-2326, correct?

5 A. Yes.

6 Q. And you note that under that agreement
7 Duke would file a rate case in the year after full
8 deployment, and then you're quoting from the
9 stipulation which says "such that the revenue
10 requirement requested in that case will reflect the
11 level of the benefits attributable to SmartGrid which
12 have actually been achieved by the company in all
13 prudently incurred current costs associated with the
14 program." Do you see that?

15 A. Yes.

16 Q. You would agree that the rate case
17 referenced here in this 10-2326 stipulation is the
18 current rate case, 17-32, correct?

19 A. That is correct.

20 Q. And I would direct your attention to the
21 phrase "level of the benefits attributable to
22 SmartGrid." Do you see that?

23 A. Yes.

24 Q. It's on line -- thank you. The phrase --
25 well, let me take a step back.

1 The reference here is to the revenue
2 requirement. A revenue requirement is a dollar
3 number, correct?

4 A. Yes, it is.

5 Q. And so, when we use the phrase "level of
6 the benefits attributable to SmartGrid," the word
7 "level" would also refer to a dollar number, correct?

8 A. Yes, it does.

9 Q. And you don't know the dollar value of
10 the benefits attributable to SmartGrid which has
11 actually been achieved by the company in the test
12 year, correct?

13 A. No.

14 Q. Let's turn to page 3 of your testimony,
15 please.

16 A. Okay.

17 Q. And starting at line 6, we discuss OCC's
18 Objection 12 where OCC objected to the fact that the
19 Staff Report did not address whether Duke's current
20 SmartGrid infrastructure is capable of providing
21 customers with safe, reliable, and reasonably-priced
22 electric service. You are aware of that objection,
23 correct?

24 A. Yes.

25 Q. And your response is simply "This is

1 outside the scope of the proceeding"?

2 A. That's the response, yes.

3 Q. When you say "this proceeding" here, are
4 you referring only to the rate case?

5 A. Only to the rate case.

6 Q. So you would agree that in, for example,
7 the ESP case, whether Duke is providing safe,
8 reliable, and reasonably priced electric service
9 would, in fact, be relevant, correct?

10 MR. LINDGREN: Objection, calls for a
11 legal conclusion.

12 EXAMINER CATHCART: Sustained.

13 MR. HEALEY: Your Honor, if I may
14 respond, ask for reconsideration, his conclusion in
15 line 8 is that Objection 12 is outside the scope of
16 this proceeding. If he's entitled to make a
17 conclusion about the scope of the proceeding based on
18 4928, then he should also have to be able to respond
19 whether it is or is not within the scope of a
20 different proceeding. If Staff would like to
21 withdraw Question 6, I would be happy to entertain
22 that.

23 MR. LINDGREN: No, we would not like to.

24 MR. HEALEY: Your Honor, if I may finish,
25 if he's entitled to testify as to the scope of this

1 proceeding in response to an OCC objection, he
2 shouldn't then be entitled to defer on the same
3 question for another proceeding in which he is
4 testifying.

5 MR. LINDGREN: No. Mr. Schweitzer is
6 only addressing objections filed in the rate case.
7 He should not be subject to questioning about
8 whether -- about another case.

9 EXAMINER CATHCART: I am going to sustain
10 the objection.

11 MR. HEALEY: Thank you, your Honor. I'll
12 move on.

13 Q. (By Mr. Healey) Mr. Schweitzer, is it
14 your testimony in a rate case the Commission can
15 approve unreasonably-priced electric service?

16 A. As a citizen, I would hope not, but a
17 Commission can approve rates that are based on the
18 facts presented in the case but I would --
19 unreasonableness is an abstract measurement that
20 would be somebody's opinion, so I don't have an
21 opinion on that one way or the other.

22 Q. Sure.

23 Are you familiar with the phrase "just
24 and reasonable" as in the regulatory context?

25 A. Yes.

1 Q. And you would agree that rates approved
2 by the Commission must be just and reasonable,
3 correct?

4 A. I do agree with that, yeah.

5 Q. So therefore, in a rate case, if the
6 Commission were to approve rates that were deemed
7 unreasonable, that would be wrong, correct?

8 MR. LINDGREN: Objection. Mr. Schweitzer
9 is not testifying here on rates. He is only
10 addressing specific objections.

11 MR. HEALEY: Your Honor, he is testifying
12 that whether a rate -- whether assets are capable of
13 providing safe, reliable, and reasonably-priced
14 electric service is outside the scope of this
15 proceeding, so I am asking him if -- to clarify his
16 reasoning on why he thinks that's outside the scope
17 of the proceeding.

18 EXAMINER CATHCART: Overruled. I'll
19 allow the question.

20 MR. HEALEY: Can I have that question
21 reread, please.

22 MS. WATTS: Your Honor, I would like to
23 object as well because I believe the question was
24 what Mr. Schweitzer thought about what the Commission
25 would do, and Mr. Schweitzer can't testify as to what

1 goes on in the Commission.

2 (Record read.)

3 MR. HEALEY: I would respond to Ms. Watts
4 and say if he is incapable of testifying as to what
5 the Commission can or cannot do in this proceeding,
6 then he can't possibly state that Objection 12 is
7 outside the scope. That's exactly what he is
8 testifying to in Question and Answer 6, that he
9 believes the Commission does not have the authority
10 to address this objection in this case.

11 MR. LINDGREN: Objection. That
12 mischaracterizes his testimony there.

13 MR. HEALEY: I'll move on, your Honor.

14 EXAMINER CATHCART: Thank you.

15 Q. (By Mr. Healey) Let's move on to your Q
16 and A No. 7 which starts on page 3 at line 10. Here
17 you discuss OCC Objections 13 and 15 and your
18 ultimate conclusion is that the SmartGrid
19 expenditures have already been deemed to be prudent
20 and the underlying assets used and useful in the
21 DR-IM Rider proceedings; is that fair?

22 A. That is fair, yes.

23 Q. And the most recent -- or I guess -- let
24 me start again.

25 One of those proceedings would be Case

1 No. 17-1403, correct?

2 A. Yes.

3 MR. HEALEY: Your Honor, if I may
4 approach?

5 EXAMINER CATHCART: You may.

6 MR. HEALEY: Your Honor, if I may mark as
7 OCC Exhibit 13, the document I just handed the
8 witness is the "Staff Review and Recommendation" from
9 Case No. 17-1403, dated September 26, 2017.

10 EXAMINER CATHCART: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Mr. Schweitzer, as we just discussed, one
13 of the rider proceedings you refer to in your
14 testimony is Case No. 17-1403, correct?

15 MR. LINDGREN: Objection. Counsel hasn't
16 established yet that the witness was involved with or
17 familiar with this particular case. I don't believe
18 he's testified about this particular one.

19 MR. HEALEY: Your Honor, his testimony
20 says that the rider proceedings approved whether the
21 costs were prudent and used and useful. If his
22 counsel wants to tell me he doesn't know anything
23 about these proceedings, then how could he possibly
24 testify what was or was not approved in them?

25 MS. WATTS: And, your Honor, just for the

1 record -- I take that back.

2 MR. LINDGREN: If I may, your Honor, the
3 witness testified in general that the riders had been
4 reviewed in prior proceedings, but he did not address
5 any particular proceeding including this one.

6 MR. HEALEY: Your Honor, his testimony
7 says the Commission has approved Rider DR-IM annually
8 since 2010; OCC has been a party each year; each year
9 the audit of these expenses included this and that;
10 during the audit, this was done. I mean, to sit here
11 and say he can testify to all that, but then can't
12 testify to the individual cases because he didn't
13 specifically identify the numbers, I mean, is that
14 really what we're objecting to now?

15 EXAMINER CATHCART: Overruled. The
16 witness can answer to his understanding.

17 A. Is there a question for me to answer?

18 Q. I'm not sure.

19 (Record read.)

20 A. I did not specifically refer to this
21 individual case, but in general I referred to all
22 SmartGrid rider cases.

23 Q. And your understanding is that in all of
24 the SmartGrid rider cases, the Staff reviewed whether
25 the charges to customers were prudently incurred?

1 A. That is correct.

2 Q. And it's your understanding that in each
3 of these rider cases, the Staff reviewed whether the
4 underlying SmartGrid assets were used and useful?

5 A. Yes.

6 Q. Okay. Now, I would like to direct you to
7 the document that has now been marked OCC Exhibit 13
8 which is the Staff's Report from 17-1403 which is one
9 of the recent cases that you are referring to. Do
10 you have that in front of you?

11 A. Yes.

12 Q. And could you show me where in this
13 document the Staff says anything about prudence or
14 used and usefulness?

15 A. It may not specifically say it, but there
16 is implications of used and usefulness throughout the
17 audit. The words themselves don't appear here, but
18 used and usefulness during the course of a Staff
19 audit is determined even if the words do not appear
20 on the Staff Report.

21 MR. HEALEY: Your Honor, may I approach?

22 EXAMINER CATHCART: You may.

23 MR. HEALEY: Your Honor, if I may mark as
24 OCC Exhibit 14 what's just been handed to the witness
25 which is the Staff's Report from the DR-IM Rider

1 case, 16-1404.

2 EXAMINER CATHCART: So marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. Mr. Schweitzer, is this the similar
5 report that was filed in the previous year's case
6 regarding Rider DR-IM?

7 A. It is, yes.

8 Q. And can we agree that this report also
9 does not use the words "prudence," "prudent," or
10 "used and useful"?

11 A. That is correct, but, once again, I will
12 say that those words, even though they may not be
13 typed on this, it is part of a Staff audit.

14 Q. And would you agree that another one of
15 these --

16 MR. HEALEY: I promise I only have one
17 more, your Honor.

18 Q. Would you agree that the previous case
19 regarding DR-IM was Case No. 15-833?

20 A. That number sounds familiar.

21 Q. I can -- if you would like, I can hand
22 you the docket card.

23 A. Subject to check.

24 Q. Or otherwise trust me. Appreciate that.

25 MR. HEALEY: Your Honor, I would like --

1 actually, I would like to mark the docket card
2 actually. May I approach?

3 EXAMINER CATHCART: You may.

4 MR. HEALEY: Your Honor, if I may mark as
5 OCC Exhibit 15, this is the docket card from Case
6 15-833-GE-RDR before the PUCO.

7 EXAMINER CATHCART: So marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. And, Mr. Schweitzer, I believe you just
10 confirmed this is also a Rider DR-IM case and annual
11 rider update, correct?

12 A. Yes.

13 Q. And if you look about halfway down this
14 page, you will see on January 6, 2016, a Stipulation
15 and Recommendation was filed in that case, correct?

16 A. Yes, that's what it says.

17 Q. And then a couple months later, on
18 March 31, 2016, there is an Order approving that
19 stipulation. Do you see that?

20 A. Yes.

21 MR. HEALEY: Your Honor, if I may
22 approach again?

23 EXAMINER CATHCART: You may.

24 MR. HEALEY: Your Honor, I would like to
25 mark as OCC Exhibit 16, the document that's just been

1 handed to the witness which is the Stipulation and
2 Recommendation filed in Case 15-883.

3 EXAMINER CATHCART: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. (By Mr. Healey) Mr. Schweitzer, do you
6 see the stipulation I just handed to you and
7 recognize that it is -- appears to be the stipulation
8 that we just discussed on the docket card filed on
9 January 6?

10 A. Yes.

11 Q. Let's turn quickly to page 8 of this
12 stipulation. And I just do note this stipulation was
13 filed by Duke, correct? On page 8.

14 A. Yes, that's correct.

15 Q. And then on page 9, it was also signed by
16 the staff of the Consumers' Counsel, and Ohio
17 Partners for Affordable Energy, correct?

18 A. Correct.

19 Q. Let's turn to page 5, please. And I
20 would direct you to footnote 3. And it says "The
21 Signatory Parties are not agreeing that Duke's
22 SmartGrid, or any component thereof, is 'used and
23 useful,' or that any related expenses are appropriate
24 for ratemaking, for purposes of the rate case that
25 Duke must file by October 22, 2016, per the

1 stipulation and Commission Order in Case No.

2 10-2326-GE-RDR." Do you see that?

3 A. Yes.

4 Q. And you would agree the rate case
5 identified in this footnote is the current rate case,
6 17-32?

7 A. Okay. Yes.

8 Q. And so you agree, therefore, that Staff
9 agreed, as part of this settlement which, as we
10 discussed previously, was approved by the Commission,
11 did not address whether the assets were used and
12 useful, correct?

13 MR. LINDGREN: Objection. The document
14 will speak for itself.

15 EXAMINER CATHCART: Sustained. The
16 document reads what it says.

17 Q. Having seen this document,
18 Mr. Schweitzer, do you still testify that the
19 Commission found that the assets were used and useful
20 as part of this case?

21 MS. WATTS: And, your Honor, I object as
22 it calls for a legal conclusion. Mr. Schweitzer is
23 not a lawyer. And, further, the language contained
24 on page 5 doesn't necessarily preclude Staff from
25 having an opinion about used and useful.

1 MR. HEALEY: Your Honor, page 4, line 6,
2 of Mr. Schweitzer's testimony says "these expenses
3 have already been approved as prudent and used and
4 useful." My question was does he still believe that
5 to be true notwithstanding the document in front of
6 him. He is certainly able to answer whether he
7 stands by his own testimony.

8 EXAMINER CATHCART: Overruled. I'll
9 allow the question.

10 A. For purposes of settlement, there may be
11 a presumption here that certain parties didn't want
12 to agree to. But when it comes to Commission rulings
13 on the pre -- presented with facts in the case, the
14 Commission is going to approve or disapprove, in its
15 Commission Orders, based on the facts that it's
16 given. And part of -- part of the Commission's --
17 well, I am not going -- I won't even say that. But
18 generally speaking, yes, the Commission is still
19 going to make its Orders based on the prudence of the
20 costs that it's approving.

21 MR. HEALEY: That's all I have, your
22 Honor.

23 EXAMINER CATHCART: Thank you.

24 Duke, any questions?

25 MS. WATTS: No, your Honor.

1 EXAMINER CATHCART: Thank you.

2 Any redirect?

3 MR. LINDGREN: May we have 2 minutes to
4 confer, your Honor?

5 EXAMINER CATHCART: You may.

6 EXAMINER WALSTRA: Go off the record.

7 (Discussion off the record.)

8 EXAMINER CATHCART: Let's go back on the
9 record.

10 Any redirect?

11 MR. LINDGREN: Staff has no redirect,
12 your Honor.

13 EXAMINER CATHCART: Thank you. Thank
14 you.

15 MR. LINDGREN: And, your Honors, I would
16 renew my motion for the admission of Staff Exhibit 6.

17 EXAMINER CATHCART: Any objection?

18 Hearing none, it will be admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER CATHCART: OCC?

21 MR. HEALEY: Yes, your Honor. OCC would
22 move for the admission of OCC Exhibits 13, 14, 15,
23 and 16.

24 EXAMINER CATHCART: Any objections?

25 MS. WATTS: No objection, your Honor.

1 EXAMINER CATHCART: They will be
2 admitted.

3 (EXHIBITS ADMITTED INTO EVIDENCE.)

4 MR. HEALEY: Your Honor, at this time,
5 since we had now started talking about OCC's
6 objections to the Staff Report, can we mark them as
7 OCC Exhibit 17 and seek their admission as well,
8 consistent with the earlier ruling admitting IGS's
9 and RESA's objections? And I have copies of those.

10 EXAMINER CATHCART: Thank you.

11 MR. HEALEY: Would that be all right?

12 EXAMINER CATHCART: Yes, yes. That will
13 be so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 EXAMINER CATHCART: Any objections?

16 MS. WATTS: Subject to the ongoing debate
17 about what the company's permitted to put in the
18 record and what the other parties are permitted to
19 put in the record, subject to that objection, we
20 don't have anything additional.

21 EXAMINER CATHCART: Thank you.

22 It will be admitted.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 EXAMINER WALSTRA: Anything else before
25 we go off the record?

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1 MR. OLIKER: I don't know if it has to be
2 on the record. I want to talk about scheduling
3 tomorrow.

4 EXAMINER WALSTRA: Let's go off the
5 record.

6 (Discussion off the record.)

7 (Thereupon, at 12:29 p.m., the hearing
8 was adjourned.)

9 - - -

1 CERTIFICATE

2 We do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by us in this matter on Thursday, July 19, 2018, and
5 carefully compared with our original stenographic
6 notes.

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9

Karen Sue Gibson, Registered
Merit Reporter.

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12

Carolyn M. Burke, Registered
Professional Reporter.

13 (KSG-6584)

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Case No(s). 17-0032-EL-AIR, 17-0033-EL-ATA, 17-0034-EL-AAM, 17-0872-EL-RDR, 17-0873-EL-ATA, 1

Summary: Transcript in the matter of the Duke Energy Ohio, Inc. hearing held on 07/19/18 - Volume IX electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.